



Scott Tandy  
Interim, Chief Administrative Officer

## BUTTE COUNTY ADMINISTRATION

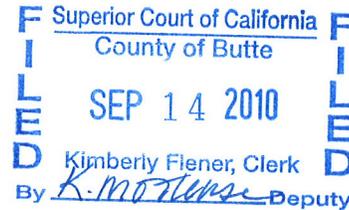
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### MEMBERS OF THE BOARD

BILL CONNELLY  
JANE DOLAN  
MAUREEN KIRK  
STEVE LAMBERT  
KIM K. YAMAGUCHI

September 10, 2010

Honorable Steven Howell, Presiding Judge  
Superior Court of California, County of Butte  
One Court Street  
Oroville, CA 95965



**RE: Clerk of the Board's Response to the 2009-2010 Butte County Grand Jury Final Report**

Honorable Judge Howell,

In Butte County, the Chief Administrative Officer serves as the Clerk of the Board and it is in that capacity, and not in the capacity of Chief Administrative Officer that this response is prepared. This response is being provided per the Grand Jury's request and addresses two items in the Grand Jury Report: 1) "Accountability and Transparency in Butte County Government" and 2) "Oroville Mosquito Abatement District."

One of the other roles of the Chief Administrative Officer is to act as the *de facto* chief of staff to the Board of Supervisors. In that role, I directed the preparation of the Board of Supervisors' draft response to the Report, therefore my response to the Report, as the Clerk of the Board, may be very similar to the response provided by the Board of Supervisors.

### ACCOUNTABILITY AND TRANSPARENCY IN BUTTE COUNTY GOVERNMENT

#### *Grand Jury Findings*

*F1. Butte County does not have a Strategic Action Plan nor a systematic way of monitoring the annual progress toward its missions, policies, goals, and objectives for each department within the County government.*

**The respondent neither agrees nor disagrees with the finding.** This finding does not fall within the function of the Clerk of the Board.



F2. *Butte County does not provide a systematic way for citizens to fully understand the missions, policies, goals, objectives and see the progress toward them for each department within the County government.*

**The respondent neither agrees nor disagrees with the finding.** This finding does not fall within the function of the Clerk of the Board.

F3. *The office of the Clerk of the Board of Supervisors was unable to provide copies of minutes for some meetings of the Board of Supervisors when they were requested by the Grand Jury.*

**The respondent disagrees partially with the finding.** Grand Jury members came into the Clerk of the Board's office unannounced on April 9, 2010. They requested any and all documents related to the Behavioral Health Department's budget and cash advance that were discussed as part of 2008/2009 Budget Hearings, including the approved minutes from June 2008 Board of Supervisors meetings.

The Grand Jury members requested the documentation be compiled as they waited.

At the time, the Clerk of the Board determined the minutes had not yet been finalized and approved by the Board of Supervisors, and therefore, provided a minute order that documented the Board's approval of the cash advance for the Department of Behavioral Health for FY 2007/2008. The Grand Jury members present were also provided 162 pages of other documents and a copy of the FY 2008-09 Budget.

F4. *The Board of Supervisors' agendas and minutes are archived and available online but they are neither complete nor current.*

**The respondent disagrees partially with the finding.** The Board of Supervisors agenda is published to the County website on the Thursday immediately preceding every regular Board of Supervisors meeting. When a supplemental agenda or Special Meeting agenda is required, these agendas are also posted to the website prior to the meeting. The posted agendas contain links to access staff reports and backup materials, if applicable, for individual agenda items.

Minutes are completed by the Clerk of the Board and subsequently approved by the Board of Supervisors at the Clerk's request. Upon Board of Supervisors approval, the minutes are then published to the website.

In response to the Grand Jury Report, a search was conducted of past records available on the Clerk of the Board website to determine if there were documents missing from the website and/or that needed Board of Supervisors approval prior to being posted. The results of that search are as follows:

- All agendas for regularly scheduled Board of Supervisors meetings from 2001 to the present were posted on the website. The search did find that some Supplemental and Special Board Meeting Agendas had not been posted.

- Some minutes of Board of Supervisors meetings were found to be missing for 2007 through 2010.

The Clerk of the Board has posted to the website any Supplemental and Special Board Meeting agendas that were missing. A procedure is now in place to review the content of the website every six months to ensure all agendas remain current and accessible.

The Clerk of the Board has identified the missing minutes and is in the process of finalizing the documents for Board of Supervisor approval and posting. As with agendas, the Clerk of the Board will do a review every six months to ensure minutes remain current and accessible.

*F5. The Butte County Board of Supervisors does not provide archived audio or video of its meetings on its website.*

**The respondent agrees with the finding.** Currently, Butte County does not provide audio or video archives of their meetings on the County website.

*F6. Butte County administration and many Butte County departments are making use of the Web to provide a wide variety of information and data to the public.*

**The respondent agrees with the finding.**

*F7. The Butte County website is not being fully utilized to communicate and share vital information about County operations with citizens.*

**The respondent neither agrees nor disagrees with the finding.** This finding is not within the function of the Clerk of the Board.

*F8. The Butte County website lacks a cohesive “look and feel” and makes it difficult for citizens to navigate and find information.*

**The respondent neither agrees nor disagrees with the finding.** This finding is not within the function of the Clerk of the Board.

*F9. The Butte County website does not provide a Local Appointments List with information on district boards, commissions, and committees.*

**The respondent agrees with the finding.** The website does contain a page informing the public that the Clerk of the Board maintains a Local Appointments List (Registry), and the website provides information to contact the Clerk of the Board with any questions regarding the membership or detail of a particular board, commission, committee or special district.

Every regular Board of Supervisors agenda contains an agenda item (4.01) entitled “Appointments to Listed Vacancies.” A listing of current vacancies is provided to each Board member with each agenda. That same vacancy listing is available to the public every two weeks on the website as part of the Board of Supervisors regular meeting agenda.

The Clerk of the Board intends to post the entire Local Appointments List (Registry) to the website in September 2010.

### ***Grand Jury Recommendations***

*R1. The Board of Supervisors should require the development of a county-wide Strategic Action Plan and adopt a systematic method of monitoring the annual progress toward its missions, goals, policies, and objectives. Every department within the County government should have a clear understanding of its mission, policies, goals and objectives as they relate to the County Strategic Action Plan. Each department should have ways to measure progress toward its missions, policies, goals, and objectives.*

**The respondent cannot respond to the recommendation.** The recommendation is specific to the Board of Supervisors.

*R2. The Board of Supervisors should make use of the County website to provide information on each department's missions, policies, goals, and objectives. That information should be easily accessible to the public and kept current.*

**The respondent cannot respond to the recommendation.** The recommendation is specific to the Board of Supervisors.

*R3. The Clerk of the Board of Supervisors should maintain complete and current minutes.*

**The recommendation has been implemented.** The Clerk of the Board has initiated a bi-annual inventory of minutes to ensure that none are missing or incomplete in the future. As discussed in Finding #3, the specific minutes that were requested for the June 2008 meetings were not available upon request and have since been completed. The minutes were from two of the Board meetings that took place during the two-month fire siege that occurred in 2008.

The staff responsible for minutes was diverted to the Emergency Operations Center during part of the fire siege. Completion of the minutes was missed in the midst of the declared disaster.

*R4. The Butte County Board of Supervisors should provide complete, archived, and current agendas and minutes on its website.*

**The recommendation has been implemented.** It is the responsibility of the Clerk of the Board to provide agendas and minutes on the County website. The County website contains links to agendas and minutes. Electronic copies of agendas and minutes have been available on the County website since 2001. The Clerk of the Board did an inventory of minutes and agendas posted on the County website, as discussed in Finding #4. All agendas from regularly scheduled Board meetings were on the County website. The only agendas that were missing from the website were some Supplemental and Special Board Meeting agendas, and those have all now been placed on the County website. Several minutes were missing for 2007 through 2010 and

are in the process of being completed, taken to the Board of Supervisors for approval, and posted to the County website.

R5. *The Butte County Board of Supervisors should provide archived audio and video of its meetings on its website.*

**The recommendation requires further analysis.** It is the responsibility of the Clerk of the Board to provide information pertaining to Board meetings on the County website. The Clerk of the Board is working with the County's Information Systems Department to determine the feasibility of posting audio or video archives to the Clerk of the Board website beginning January 2011.

In the meantime, the Clerk of the Board does provide CD and/or DVD copies of Board meetings for a \$5.00 duplication fee. Board of Supervisors meetings are also broadcast on cable Channel 11 (Butte College TV) at 6:00 p.m. on the Sunday following a Board meeting. Board of Supervisors meetings have been broadcast on Channel 11 since approximately 1990. There is information on the Clerk of the Board website on how to obtain audio or video copies of the Board meetings and listing the broadcast day and time of Board meetings.

R6. *The Board of Supervisors should adopt a consistent design to be used by all of its departmental websites to provide information for citizens. It should adopt website usability guidelines so that County departmental websites will provide clear information in an efficient and effective manner to both the County staff, its administrators, managers, and to the public.*

**The respondent cannot respond to the recommendation.** The recommendation is specific to the Board of Supervisors.

R7. *The Board of Supervisors should make use of its website to provide a Local Appointments List with all of the following information on district boards, commissions, and committees. A list of all appointive terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position; a list of all boards, commissions, and committees whose members serve at the pleasure of the legislative body, and the necessary qualifications for each position.*

**The recommendation has been implemented.** The current Butte County Local Appointments List (Registry) contains the following information on each Board, Committee, and Commission:

- 1) Description of the Formation of the Entity
- 2) Structure, Appointment, and/or Qualification Requirements of Members
- 3) Terms of the Members
- 4) Meeting Dates and Locations
- 5) Contact information for the Administrator of the Board, Committee, Commission
- 6) The names and contact information for each member

7) A listing of Board of Supervisors action dates

The copy of the current Local Appointments List will be available on the County website beginning September 2010. Personal contact information will be redacted from the website, though it will be available by contacting the Clerk of the Board.

The information contained in the Local Appointments List has always been available to the public in the Chief Administrative Office and upon request.

## OROVILLE MOSQUITO ABATEMENT DISTRICT

### *Grand Jury Findings*

*F1. OMAD operations are functioning effectively; there have been no instances of human cases of West Nile Virus in the OMAD.*

**The respondent neither agrees nor disagrees with these findings.** Even though the Butte County Clerk of the Board was requested to respond, the findings are directed at the Oroville Mosquito Abatement District, which is an independent governmental entity.

*F2. The service provided by OMAD, a smaller district, is more personal to the residents of the district, and is cost effective.*

**The respondent neither agrees nor disagrees with these findings.** Even though the Butte County Clerk of the Board was requested to respond, the findings are directed at the Oroville Mosquito Abatement District, which is an independent governmental entity.

*F3. Appointments to the OMAD Board by the Butte County Board of Supervisors and the Oroville City Council have not been timely or in accordance with California law.*

**The respondent partially agrees with the finding.** The Clerk of the Board is aware that requests for appointments from OMAD, an independent government entity, have not been timely; therefore some appointments by the Board of Supervisors have not been timely.

However, California law states that an office holder whose term has expired shall continue to discharge the duties of his/her office until a successor has qualified. Therefore, a Trustee of the District has the authority to continue to act after the expiration of his or her term unless and until a successor is appointed.

*F4. As a result of lengthy vacancies, the OMAD Board has often not had a quorum and has been unable to conduct business. From October 2007 through March 2010, there has only been a full five-member OMAD Board for seven months.*

**The respondent neither agrees nor disagrees with these findings.** Even though the Butte County Clerk of the Board was requested to respond, the findings are directed at the Oroville Mosquito Abatement District, which is an independent governmental entity.

*F5. A qualified person who had demonstrated interest and commitment to the OMAD Board by attending numerous meetings and who was recommended as an appointee by the OMAD Board was not even considered for that appointment by the District One Supervisor.*

**The respondent disagrees with the finding.** The District One Supervisor was provided with the request for appointment and recommendation for appointment by the OMAD District Manager for consideration. The Supervisor did not choose to make a nomination of the individual.

*F6. The District One Supervisor's failure to fulfill his obligation to oversee appointments to the OMAD Board appears to be due to making his personal interests more important than his regard for California law which states: The trustees shall represent the interests of the public as a whole and not solely the interests of the board of supervisors or the city council that appointed them. This has often left the OMAD Board unable to function properly, due to long, unfilled vacancies.*

**The respondent disagrees with the finding.** The California Law listed above (Health and Safety Code 2022) refers to the duties of trustees of Special Districts, not the duties of a member of the Board of Supervisors. Neither the Board of Supervisors nor individual members of the Board of Supervisors are required to oversee appointments to Special Districts. The Clerk of the Board does not have knowledge regarding whether or not the OMAD Board of Trustees has been able to function properly.

*F7. Appointments to the OMAD Board by the Board of Supervisors, as recommended by the District One Supervisor, have included at least one person who was unqualified due to their residency being outside the District.*

**The respondent agrees with the finding.** At its October 13, 2009 meeting, the Board of Supervisors made an appointment to a listed vacancy on the OMAD. It was determined after the appointment was approved that the individual was not a resident of the OMAD, which is a requirement to serve on the OMAD. The appointee subsequently resigned, citing he did not meet the residency requirement of the District.

*F8. The appointment letters to new OMAD Board appointees by the Board of Supervisors do not include the relevant information regarding the OMAD Board responsibilities, meeting time, and place.*

**The respondent agrees with the finding.** The County is not required to inform appointees of information such as responsibilities of the appointees or meeting times and places. It is the responsibility of the specific Board, Commission, Committee or Special District to provide that information to appointees.

The Local Appointments List (Registry) contains the membership and information of over 125 Boards, Committees, Commissions, Districts and Government Entities. Many of these Boards, Committees, Commissions, and Districts have their own by-laws and rules for proceedings, and the Butte County Clerk of the Board is not at all responsible for day-to-day operations and/or meeting schedules of any entity other than the Board of Supervisors, in all its capacities, and the Assessment Appeals Board.

*F9. The OMAD Board and the appointee were not notified by mail of an October 2009 appointment recommended by the District One Supervisor and approved by the Board of Supervisors.*

**The respondent partially agrees with the finding.** The Clerk of the Board electronic files contain an appointment letter addressed to the appointee, however records do not contain a signed copy of a letter to either the OMAD Board or the appointee.

*F10. The Locals Appointments List, as related to the OMAD, and over a period of time that we reviewed has not been accurately maintained as required by California law by both the County of Butte and the City of Oroville.*

**The respondent partially disagrees with the finding.** The Clerk of the Board cannot speak to the practices of the City of Oroville.

It is the practice of Butte County to follow Government Code 54972 which requires that:

“On or before December 31 of each year, each legislative body shall prepare an appointments list of all regular and ongoing boards, commissions, and committees which are appointed by the legislative body of the local agency. This list shall be known as the Local Appointments List. The list shall contain the following information:

- (a) A list of all appointive terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position.
- (b) A list of all boards, commissions, and committees whose members serve at the pleasure of the legislative body, and the necessary qualifications for each position.”

The Clerk of the Board strives to maintain an accurate, on-going record of the membership of the over 125 entities that are listed in the Local Appointments List. In order to accurately maintain the record, each Board, Committee, Commission and/or Special District must communicate any unscheduled changes in the membership that occur throughout the year to the Clerk of the Board. The California Government Code requires that the List is prepared only once a year, however, the Clerk of the Board inputs amendments to the List throughout the year when notification of changes are submitted by the appropriate parties.

*F11. The OMAD Board has not been monitoring Board Members' term expiration dates. As a result, they have not been notifying the proper appointing authorities in a timely manner or current or anticipated vacancies or their interest of being reappointed.*

**The respondent neither agrees nor disagrees with these findings.** Even though the Butte County Clerk of the Board was requested to respond, the findings are directed at the Oroville Mosquito Abatement District, which is an independent governmental entity.

*F12. At times, for security reasons, the doors to the OMAD Board meeting room in the Oroville City Hall have been locked and access for citizens may have been hindered.*

**The respondent neither agrees nor disagrees with these findings.** Even though the Butte County Clerk of the Board was requested to respond, the findings are directed at the Oroville Mosquito Abatement District and the City of Oroville, which are independent governmental entities.

### ***Grand Jury Recommendations***

*R1 OMAD should continue to function as an independent mosquito abatement district and should not be consolidated with another mosquito abatement district.*

**The respondent is unable to comment on these recommendations.** Even though the Butte County Clerk of the Board was requested to respond, the recommendations are directed at the Oroville Mosquito Abatement District, which is an independent governmental entity.

*R2. The Butte County Board of Supervisors should make use of their website to actively publicize vacancies and information (qualifications, purpose, functions, and current board members) for the special district boards, commissions, and committees to which they have the responsibility to appoint members.*

**The recommendation has been implemented.** It is the responsibility of the Clerk of the Board to maintain the Local Appointments List and assure its accessibility to the public. As of September 2010, the County website contains the Local Appointments List.

*R3. The Butte County Board of Supervisors and Oroville City Council should take steps to assure that appointments to fill vacancies to OMAD and other special districts boards, commissions, and committees for which they have the responsibility to appoint members are timely and in accordance with California Law.*

**The respondent is unable to comment on these recommendations.** Even though the Butte County Clerk of the Board was requested to respond, the recommendations are directed at the Oroville Mosquito Abatement District, which is an independent governmental entity.

*R4. The Butte County Board of Supervisors and Oroville City Council should take steps to assure that the Local Appointments List is accurate with respect to OMAD and other special districts boards, commissions, and committees for which they have the responsibility to appoint members.*

**The recommendation has been implemented.** As the function responsible for maintaining the Local Appointments List and as required by the Government Code, the Clerk of the Board requests updated information annually from the over 125 special districts, boards, commissions and committees for which the Board of Supervisors has authority to appoint members. The Clerk of the Board cannot compel special districts, boards, commissions and committees to respond to the request for information, therefore the information contained in the List is based upon the best information provided by the responsible parties. The Clerk of the Board does amend the List throughout the year, if notified by the appropriate party that there is a change.

*R5 When making appointments to districts, boards, commissions, Butte County Board of Supervisors and Oroville City Council should base their appointments on the needs of the district or commission and not on an individual supervisor's or council member's agenda.*

**The respondent is unable to respond to the recommendation.** The recommendation is specific to the Board of Supervisors.

*R6 The Board of Supervisors should assign responsibility to the Clerk of the Board of Supervisors or another county government official to determine if an applicant or appointed person to fill a board vacancy meetings the residency and other mandated requirements. The Oroville City Council should also designate such a person in the city administration.*

**The respondent is unable to respond to the recommendation.** The recommendation is specific to the Board of Supervisors and the Oroville City Council.

*R7 The OMAD Board should monitor upcoming vacancies and communicate with the appointing authorities so that vacancies are filled in a timely manner.*

**The respondent is unable to comment on these recommendations.** Even though the Butte County Clerk of the Board was requested to respond, the recommendations are directed at the Oroville Mosquito Abatement District, which is an independent governmental entity.

*R8 The OMAD Board should immediately communicate with the appointing authority whenever an unexpected vacancy occurs.*

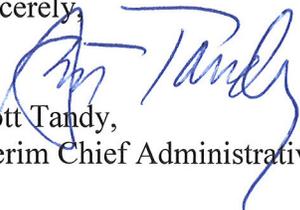
**The respondent is unable to comment on these recommendations.** Even though the Butte County Clerk of the Board was requested to respond, the recommendations are directed at the Oroville Mosquito Abatement District, which is an independent governmental entity. The Clerk of the Board does encourage all special districts, boards, commissions and committees to provide timely and accurate information to the appointing authority.

*R9 The City of Oroville and the OMAD Board should work together to assure that the doors to the OMAD Board meeting room in the Oroville City Hall are unlocked during OMAD Board meetings.*

**The respondent is unable to comment on these recommendations.** Even though the Butte County Clerk of the Board was requested to respond, the recommendations are directed at the Oroville Mosquito Abatement District and the City of Oroville, which are independent governmental entities.

This concludes the response from the Clerk of the Board.

Sincerely,



Scott Tandy,  
Interim Chief Administrative Officer and Clerk of the Board