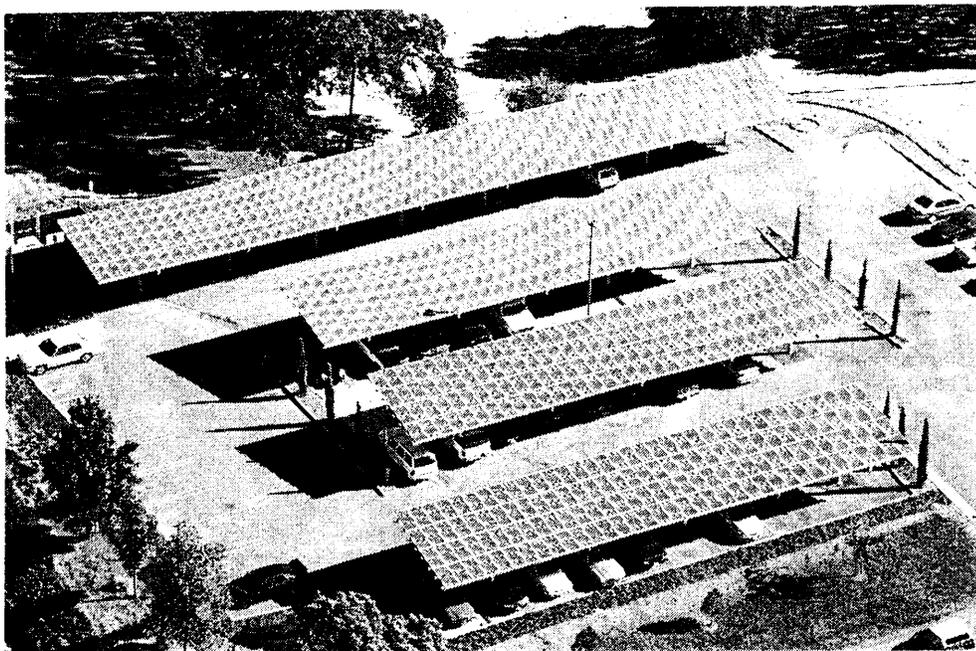


Grand Jury
2004-2005 Final Report



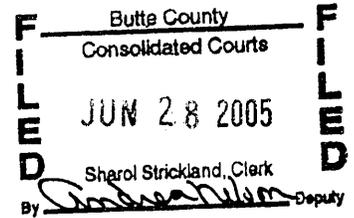
The Butte County Solar Energy System

On the cover of the Butte County 2004/05 Grand Jury Final Report is a photograph of The Butte County Solar Energy System. The project was completed in August 2004. It is located at the Butte County Government Center on County Center Drive in Oroville, California. The total project output is 997 kilowatts AC or 1.18 Megawatts DC. This system provides all the electrical energy needs for three County buildings. There are four separate arrays containing a total of 6,360 185-watt photovoltaic panels. When this system became operational, it was the fifth largest solar energy system in the United States.

The 1.18-megawatt DC solar system prevents 1164 tons of carbon dioxide from being emitted into the atmosphere annually by a gas-fired power plant. It takes 100 acres of trees to filter this much carbon dioxide from the atmosphere.

Over 300 county employees, residents, and solar energy supporters assisted the County in "soaking up the sun" during the October 27, 2004 dedication of the County's 1.18 megawatt solar facility. During the event, the Butte County Board of Supervisors accepted a \$4.2 million dollar rebate check from PG&E. The County's rebate is the largest solar rebate ever issued by PG&E.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF BUTTE
One Court Street
Oroville, CA 95965-3303
(530) 538-7611
June 27, 2005



2004-2005
BUTTE COUNTY GRAND JURY
FINAL REPORT

The Grand Jury Final Report has been filed on this date pursuant to Penal Code Section 933. A copy of the report is enclosed. Your attention is invited to the following code section regarding the time requirements for comment to the report.

PENAL CODE SECTION 933

§ 933. Report of findings and recommendations; Comment by governing body of agency and by mayor.

- (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.
- (b) One copy of each final report, together with responses thereto, found to be in compliance with this title shall be placed on file with the county clerk and remain on file in the office of the county clerk. The county clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.
- (c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that

2004-2005 BUTTE COUNTY GRAND JURY

county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

PENAL CODE SECTION 933.05

§ 933.05. Responses to grand jury reports

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

2004-2005 BUTTE COUNTY GRAND JURY

- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
- (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
- (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.
- (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

2004-2005 BUTTE COUNTY GRAND JURY

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2004-2005 BUTTE COUNTY GRAND JURY

FOREPERSON'S LETTER TO THE PRESIDING JUDGE

The Honorable Barbara Roberts
Presiding Judge of the Superior Court

Dear Judge Roberts:

I am pleased to present the 2004/05 Butte County Grand Jury Final Report for your review and consideration. The 15 reports that follow, along with the recommendations made, were reviewed and approved by the 2004/05 Grand Jury. It is my hope the citizens of Butte County will benefit from our one-year of service.

During the year, we interviewed many people and some several times, though not all persons interviewed will be included in the following reports. We closed some investigations after satisfying ourselves that the governmental processes under review were sound.

With your approval, we employed an attorney as special counsel when our counsel, the Butte County Office of County Counsel declared a conflict with an investigation. We cannot overstate our appreciation of your support through the turmoil of several very difficult investigations; you listened patiently to our obstacles while not becoming involved in the content of the material.

The 19 members of the Grand Jury come from all areas of the county and diverse backgrounds. We were able to work together (with just an occasional controversy) and complete the job. We learned to maintain trust and respect even when we disagreed, and when 12 jurors did agree the others accepted the decisions with graciousness. This report is the result of the hard work and cooperation of 19 Butte County citizens that devoted a large part of a year of their lives for the benefit of their friends, neighbors, and community.

My fellow jurors and I would like to thank you for all your support and counsel. A special thank you goes to court employees Andrea Nelson, Kelly Sells, and Laura Fernandez for all their support. We would also like to thank County Counsel, the District Attorney and their staffs for their prompt legal advice. We would like to extend our thanks to each of our employers and families who allowed the time for us to serve on the 2004/05 Grand Jury.

Very truly yours,



Tim Colbie

2004-2005 BUTTE COUNTY GRAND JURY

BUTTE COUNTY GRAND JURY MEMBERS

Tim Colbie	Foreperson	Chico
Gary Newmark	Foreperson Pro Tem	Oroville
Margaret Lee	Recording Secretary	Paradise
Ivor Thomas	Sergeant-at-Arms	Paradise
Willene Adams		Chico
Mildred Brazil		Oroville
Myron Buzzini		Chico
Michael Coates		Paradise
Lovetta Ewing		Paradise
Nelda Ferguson		Chico
Gary Green		Chico
Sherman Hales		Magalia
David Hilst		Yankee Hill
Robert Jeffers		Chico
Richard Priolo		Magalia
Richard Ray		Paradise
David Renfand		Magalia
Katherine Shafer		Oroville
Dick Springer		Chico

2004-2005 BUTTE COUNTY GRAND JURY

FINAL RESOLUTION

WHEREAS, the Butte County Grand Jury has concluded the business of its term and has reached certain conclusions, and

WHEREAS, the Butte County Grand Jury desires to disclose the substance of those conclusions for the benefit of local government, its agencies and the citizens of Butte County;

BE IT RESOLVED that the attached papers, commendations, findings and recommendations are adopted as the Grand Jury Final Report and submitted to the Presiding Judge of the Superior Court of California, County of Butte, to be entered as a public document pursuant to California Law.

The above Resolution PASSED AND ADOPTED by the 2004/05 Butte County Grand Jury in Oroville on the 22nd day of June 2005.

2004-2005 BUTTE COUNTY GRAND JURY

GRAND JURY STATEMENT

The 2004/05 Butte County Grand Jury, impaneled on July 9, 2004, pledged itself to conduct its business in an ethical manner, to be responsive to citizen complaints, to visit and review offices and agencies, as mandated, to undertake to visit and review various other agencies, to accomplish the goals it set for itself and, at the end of its term, to render a comprehensive Final Report to the citizens and agencies of Butte County.

Further, the 2004/05 Butte County Grand Jury pledged itself to uphold the following values throughout its term:

- To recognize its purpose and duties in accordance with the laws of the State of California;
- To maintain the confidentiality and integrity of all Grand Jury proceedings;
- To recognize the importance of applying to all individuals the same objective standards of conduct and responsibility;
- To respect every individual's right to privacy;
- To recognize that the Grand Jury functions lawfully as a legal entity and that no single grand juror, when acting alone, has any power or authority to represent the Grand Jury;
- To remain vigilant to detect and avoid any personal conflicts of interest that may arise during the course of performing the business of the Grand Jury;
- To recognize the importance of relying on the opinions and expertise of others more skilled in particular matters regarding the business of public office and government;
- To respect the discretionary policy-making or operational powers of public officials;
- To recognize the importance of maintaining accuracy and integrity in our activities, and to keep our reports confined to matters within the scope and power of our authority.

2004-2005 BUTTE COUNTY GRAND JURY

ACKNOWLEDGMENTS

The 2004-2005 Butte County Grand Jury sincerely appreciates, acknowledges and thanks the following people and organizations for their support, guidance, and professional assistance and orientation, and for helping to make this Final Report possible:

- Gerald Hermansen, Judge of the Superior Court of California, Butte County, who initially impaneled and presided over this Grand Jury
- Barbara Roberts, Presiding Judge of the Superior Court of California, Butte County, who presided over the conclusion of this Grand Jury
- County Counsel Bruce Alpert and Assistant County Counsel David McClain and Deputy County Counsel Elizabeth McGee
- District Attorney Michael Ramsey and his Chief Investigator Tony Koester
- The staff of the Superior Court of California, County of Butte, including Sharol Strickland, Court Executive Officer, and Andrea Nelson, Deputy Court Executive Officer
- Butte County Superior Court Bailiffs
- Butte County Board of Supervisors: Curt Josiassen, Jane Dolan, Mary Anne Houx, Bill Connelly, and Kim Yamaguchi
- The Butte County Department heads, the county and district Superintendents of Schools, and their staffs
- Sheriff Perry Reniff and Officers who guided members of the Grand Jury through the Butte County Jail
- All those who agreed to be interviewed during investigations and visits
- California Grand Jury Association for the training seminars
- Our endlessly patient and understanding families and employers who supported us while we performed this challenging public service

2004-2005 BUTTE COUNTY GRAND JURY

A BRIEF HISTORY AND OVERVIEW OF THE GRAND JURY

What Is A Grand Jury?

The name of "grand jury" derives from the fact that the body usually has a greater number of jurors than a trial (petit) jury. The concept of the grand jury traces its roots to classical Greece. Ancient Athenians employed an "accusatory body" much as the Saxons of early Britain did. In fact, from 978 until 1016 one of the Saxon Doms (laws) required an accusatory body of 12 for every 100 men. The accusing body was exhorted "not to accuse an innocent man or spare a guilty one."

The modern European jury system began to evolve during the eleventh and twelfth centuries. As early as 1066, during the Norman conquest of England, courts summoned bodies of sworn citizens to investigate crimes that had come to their attention. Initially, these early juries both accused and tried suspects, and since the members of the accusing bodies were selected from small jurisdictions, they naturally presented accusations based on their personal knowledge.

During the reign of Henry II (1154-1189), juries were divided into two types - civil and criminal - with the development of each influencing the other. The oath taken by these jurors provided that they would faithfully carry out their duties, that they would aggrieve no one through enmity nor give deference to anyone through love, and that they would conceal those things that they had heard. By the year 1290, civil juries were given authority to inquire about the conditions of bridges and highways and review the practices and conditions in the jails.

The Massachusetts Bay Colony impaneled the first American grand jury in 1635 to consider cases of murder, robbery and wife beating. By the end of the colonial period the institution of the grand jury was firmly fixed in America's new and ever-evolving system of government. Although the Constitution does not specifically mention grand juries, the Fifth Amendment provides the guarantee that "No person shall be held to answer to a capital, or otherwise infamous crime, unless on the presentment of indictment of a Grand Jury..." Grand juries were used in our early history to protest governmental abuses, to propose new laws and very often to determine who should face trial. Today, forty-two states have some form of grand jury, and California is one of the states that still allow prosecution to be initiated by either criminal grand jury indictment or by judicial preliminary hearing.

Grand Jury System Today

The California State Constitution calls specifically for the use of grand juries in the governance of the state, and in 1849 the California Legislature authorized grand juries in each county. The Legislature passed laws in 1880 that required grand juries to review and investigate the activities of county government, and in 1983 the State added municipalities and districts to the purview of grand juries.

2004-2005 BUTTE COUNTY GRAND JURY

A BRIEF HISTORY AND OVERVIEW OF THE GRAND JURY

Certain larger jurisdictions - such as the Cities and Counties of San Francisco and Los Angeles - impanel separate criminal (indictment) and civil (watchdog) grand juries each year. Some counties impanel a separate criminal grand jury only when needed. The Butte County Grand Jury serves in both capacities. As constituted today, the Grand Jury is a part of the judicial branch of government and is an arm of the Court. The Grand Jury does not have the functions of either the legislative or administrative branches and it is not a police agency or political group. It is an investigative body having as its objective the detection and correction of flaws in government.

The primary civil function of the Grand Jury, and the most important reason for its existence, is the examination of all aspects of County and City government, including special districts and joint powers agencies, seeing that the public's monies are handled judiciously and that all accounts are properly audited - in general, assuring honest, efficient government in the best interest of the people.

The Grand Jury has three ways to exercise its powers:

- By reports and recommendations regarding county government, cities, special districts, and joint powers agencies.
- By indictment, bringing charges against an individual for criminal offense.
- By civil accusation of an official or employee where the result, on conviction, would be removal from office.

A large portion of the public wrongly believes that an individual, particularly a public official, appearing before the Grand Jury suggests guilt of malfeasance, misfeasance, or nonfeasance. It is the Constitutional responsibility of the Grand Jury to review the conduct of government each year. This entails having public officials appear before the Jury for the purpose of providing information relative to their departments or offices. While it is a part of the judicial system, a Grand Jury is an entirely independent body. The Presiding Judge of the Superior Court, the District Attorney, the County Counsel, and the State Attorney General act as its advisors, but cannot prevent the actions of the Jury except on issues of legality. The Grand Jury is not accountable to elected officials or governmental employees.

Due to the confidential nature of a Grand Jury's work, most, if not all, must be conducted in closed session. Members of a Grand Jury are sworn to secrecy, thus assuring all that appear before it that their testimony will be handled in strict confidence. No one may be present during the sessions of a Grand Jury except those specified by law, and the minutes of its meetings may not be inspected by anyone, nor can its records be subpoenaed.

2004-2005 BUTTE COUNTY GRAND JURY

A BRIEF HISTORY AND OVERVIEW OF THE GRAND JURY

The Grand Jury serves as an ombudsman for citizens of the county. The Grand Jury may receive and investigate complaints by individuals regarding the actions and performances of County or other public officials. Additionally, the California Penal Code specifies that the Grand Jury shall inquire into the conditions and management of the public prisons, jails, and juvenile detention facilities within the county.

The members of the Grand Jury are collectively granted special powers and privileges to aid them in carrying out their duties. The Grand Jury in its official capacity is permitted, with limited exceptions, access to and the right to inspect government facilities, and to review official books and records to which other citizens are denied access. The Grand Jury may issue subpoenas as necessary. The Grand Jury findings and recommendations are to be unbiased and impartial.

How Is The Jury Selected?

Each fiscal year the Butte County Superior Court summons a large number of qualified citizens who have resided in the county for over a year and are at least 18 years of age. The court makes it clear that service on the Grand Jury is voluntary. Potential jurors should be reasonably intelligent, of good character, and must possess a working command of the English language. From the pool of willing candidates, the Court makes a good faith effort to select qualified men and women who are diverse in age and socioeconomic, ethnic and educational backgrounds, and who represent the varied geographic areas of the county.

Superior Court judges and staff interview the body of qualified and willing candidates and choose 30 potential jurors. Nineteen members make up a full jury. At the discretion of the Presiding Judge, as many as 10 members from the previous year's jury may "holdover" or serve a second term. In order to constitute the full panel of 19, names are drawn at random, and new jurors are added to the existing holdovers. Jurors serve for a term of twelve months beginning in July. Over the course of the year and as necessary, alternates are called in sequential order from the pool of remaining potential jurors.

How Does It Work?

The Presiding Judge appoints a foreperson to preside at meetings. The Grand Jury organizes itself into officers and committees and determines which of the various departments and functions of county, city and joint powers government it will review. It also reviews compliance with the recommendations of previous Butte County Grand Juries.

Inquiries on the part of the jury, letters and complaints from citizens, and dictates of the State Penal Code collectively determine the jury's work. The Grand Jury

2004-2005 BUTTE COUNTY GRAND JURY

A BRIEF HISTORY AND OVERVIEW OF THE GRAND JURY

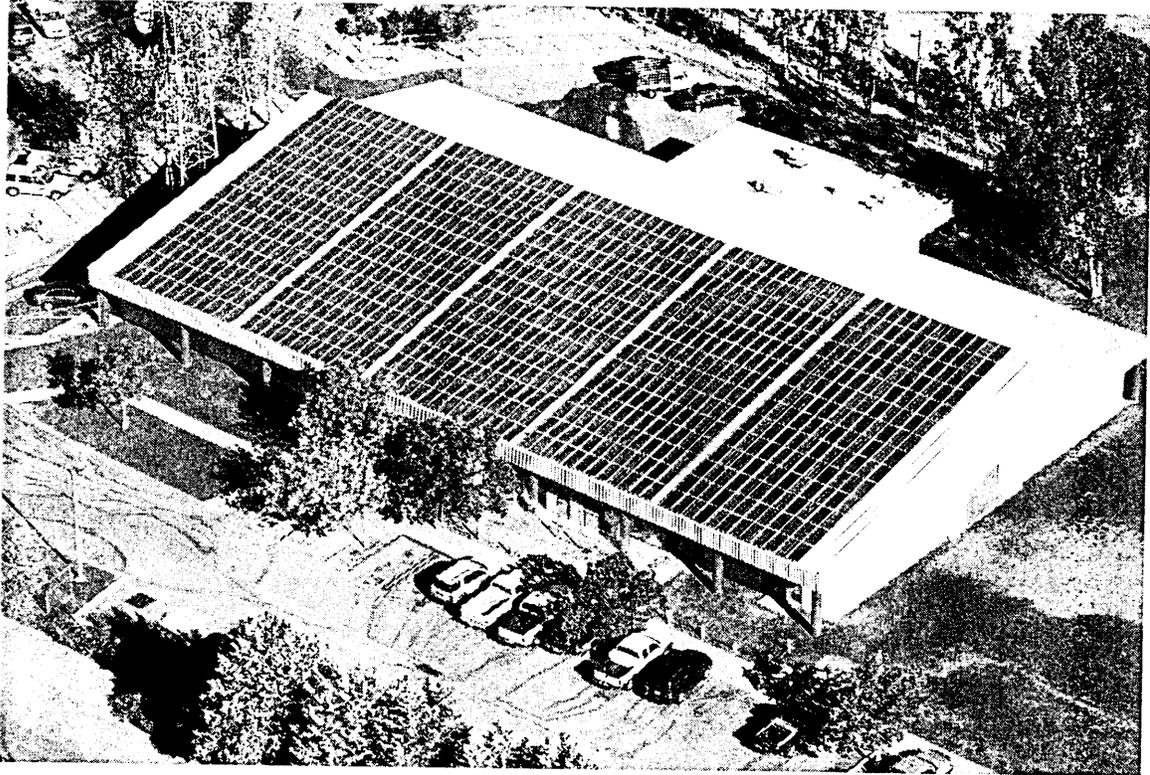
aims to identify policies in government that may need improvement. All actions of the jury - including any communication from the public and all deliberations and votes are completely confidential. The jury does publish a report of its significant findings and recommendations.

The jury's final report, however, typically reflects only a small part of the jury's actual endeavors over the course of its term. State law requires specific and detailed responses from departments upon which the jury renders findings and recommendations in its reports. Elected officials have 60 days to respond; public agencies have 90 days. The work of a Grand Jury is demanding. Most members can expect to invest approximately 500 hours of time over the course of their term, but the work can be both gratifying and personally rewarding. Service on a jury leads one to a much-improved understanding of the organization and business of local government, and to the personal satisfaction of having contributed to its improvement. The Grand Jury experience provides a unique and valuable opportunity for community service.

2004-2005 BUTTE COUNTY GRAND JURY

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Butte County Grand Jury



2004-2005
Final Report

2004-2005 BUTTE COUNTY GRAND JURY

KRONOS WORKFORCE CENTRAL TIMEKEEPING SYSTEM

Reason for Visit / Investigation

The Butte County Grand Jury Report of 2003-2004 includes a description of the Butte County Department of Auditor-Controller plan to automate the employee payroll systems. The report indicated that the Workforce Central Timekeeping System (**WCTS**) would now be complete. The Office of the Butte County Auditor-Controller revealed that implementation of the WCTS was ongoing, and was approximately one year behind the original schedule. Based on this information, the Grand Jury Audit and Finance/Administration Committee (**AFAC**) decided to look into the progress of this project, and to determine whether the WCTS was delivering the benefits for which it was purchased.

Background

A commitment of \$220,000 was made by the Butte County Board of Supervisors to determine both the desired capabilities and the computer software vendor for a centralized automated timekeeping system. A Request for Proposal was generated on November 6, 2002, and the county received two proposals. The system developed by Kronos, Inc., headquartered in Chelmsford, MA, was selected, and was approved by the Board of Supervisors on March 25, 2003.

Establishment of a WCTS for Butte County requires the purchase of Kronos platform software, system integration, and individual site licenses for each user of the system. In addition, Kronos provides training to users within each of the county government departments.

According to the project development team, error reduction is the primary objective of the WCTS, although ease of use, consistency and flexibility, and improved accountability are anticipated. More accurate accounting of employee work time will reduce overpayments. Once operational, labor hours required for production of county payroll will be significantly reduced. It is expected that the county will realize actual cost savings of \$2.5 million per year once the Kronos WCTS is fully implemented.

Investigation

The AFAC met on September 30, 2004, with WCTS project development and operations management from the Auditor-Controller department. A comprehensive briefing was provided, covering the history, purpose, and use of the timekeeping software.

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Prior to installation of the WCTS, employees would submit time sheets to the payroll department up to five days prior to the end of a pay period to insure that paychecks could be distributed on the appropriate day. This required employees to estimate their work hours with respect to overtime, vacation, and sick leave. In many cases inaccuracies required an amended timesheet to correct designated time or prevent overpayment.

As Butte County has more than 2400 employees the WCTS is being implemented in three phases. Inherent challenges include multiple worksites, varying access to computer terminals, and different personnel rules for different job classifications. Unique situations and specific needs within departments are accommodated via WCTS configuration. Auditor-Controller staff did state that WCTS implementation has been a cause for the integration of county government regarding manpower and scheduling.

The AFAC requested, received, and inspected a copy of the Butte County agreement with Kronos, as well as other WCTS documentation. The Board approved an expenditure of \$761,000 for full implementation of the KRONOS system for Butte County. Funds allocated for the initial study were returned with the recommendation that the General Fund Appropriation for Contingencies be increased by that amount.

After initial purchase of the software and its installation, at a cost of \$388,000, it was decided by the county that Kronos would train only a select group of county personnel, who then would provide training to the county workforce. It was also determined that additional software modules and user licenses were required to accommodate the unique requirements of the several departments within county government.

It was originally anticipated that complete implementation of the WCTS would be concluded by August of 2004. Delay has occurred due to personnel changes at Kronos. Accommodating a variety of unanticipated situations among all of the government departments has also contributed to delay. It is now expected that full operation will not be achieved until 2006. As of the end of 2004, approximately 50% of Butte County departments have had the WCTS implemented.

WCTS project management believes the advantages to having the Kronos system for Butte County exceeds the expected and unexpected costs of implementation. It is the position of Auditor-Controller staff that the Kronos WCTS is extremely flexible and can enhance Butte County payroll and time tracking practices.

On December 3, 2004, the AFAC met with administrators within the Butte County Office of the District Attorney, the first users of the WCTS. It was stated that after some initial problems, they are experiencing real benefits from the system.

2004-2005 BUTTE COUNTY GRAND JURY

Concurrent payrolls (paper and computer) were run for four pay periods to validate the system. Having determined that the Kronos WCTS was performing as expected, the District Attorney's office discontinued the paper system. Resulting improvement in the District Attorney's office alone showed an average error rate reduced from 25 per pay period to less than one. As of the time of inquiry, payroll had been produced by the WCTS for eleven pay periods with all employees being paid on time. It was noted however, that the software system does not interface well with the current Accounts Payable (Pentamation) system, requiring many workarounds to pass payroll information for check printing. Additionally, information for reports mandated by the State of California was not easily formatted from the WCTS product.

Although systems similar to the WCTS have been implemented for other county governments, according to District Attorney's office staff, Kronos software was most likely designed for the private sector.

Payroll administration users stated that during WCTS development, input from individual departments was not solicited. As such, many benefits of the Kronos software cannot be utilized, barring the expense of a system upgrade.

Findings

1. The impact of the Kronos WCTS on Butte County government is significant.
2. The Kronos WCTS operates in a real-time environment and so employees are reminded automatically for time data maintenance. The need for estimation is greatly reduced.
3. The WCTS requires that department management audit employee input prior to its submission to payroll, minimizing the opportunity for inaccuracies or fraud. Because the system is centralized, managers and payroll personnel have access to time keeping records at all times.
4. The WCTS provides better accountability and is more accurate than the previous varied payroll systems. Employees are now active participants in the payroll process.
5. Office of the District Attorney's staff believe that insufficient effort was made by the Office of the Auditor-Controller during the initial study to accurately assess the needs of individual county departments. In some cases, initial contact at the department level was only done at the time of system implementation, which likely contributed to delay.

2004-2005 BUTTE COUNTY GRAND JURY

6. According to Auditor-Controller staff, the entire system will cost \$200,000 over budget including the purchase of additional licenses. This may have been prevented had management from the various departments been involved from the beginning.
7. Kronos training of county employees consisted of instructing them how to train, but not how to use the system.

Recommendations

1. Investigate methods to update or replace the interface between the Kronos WCTS and the Pentamation Accounts Payable System to accomplish seamless time accounting and payment.
2. Auditor-Controller staff should work with the Butte County Information Systems staff to configure the Kronos WCTS and other existing systems so that they work together and that all new and current systems are utilized to their fullest capabilities.
3. Any additions or adjustments to the WCTS should require coordination between the office of the Auditor-Controller and the users, before implementation.
4. Some reports generated by the WCTS must be modified prior to being sent to the State of California. As these reports are not unique to Butte County it is felt that Kronos should resolve this issue.
5. Insist on more productive customer support from Kronos so that the WCTS can be used as efficiently as possible.

Responses Required (Penal Code § 933 & 933.05)

Butte County Auditor-Controller
Butte County Board of Supervisors

2004-2005 BUTTE COUNTY GRAND JURY

OPEN SERIES FINANCIAL SOFTWARE SYSTEM AND AUDITOR- CONTROLLER PROCEDURES

Reason for Visit/Investigation

The Butte County Grand Jury Audit and Finance/Administration Committee (AFAC) chose to investigate Auditor-Controller Department progress with its implementation of the Pentamation Open Series financial accounting software system. Additionally, the AFAC had been told during its Kronos Workforce Central Timekeeping System investigation that there were compatibility issues between Kronos and Pentamation software.

Background

The Butte County Auditor-Controller Department began the process of replacing an existing version of Pentamation software with the Open Series System in 2002. Although working with the same vendor (Pentamation), the Open Series system, by design, is not compatible with the system that had been in use. The 2002/2003 Butte County Grand Jury investigated this transition of software systems and made a number of recommendations. It is not the intent of this Grand Jury to describe details of the entire open series software system or the transition process. Rather, project completion, system function, and follow through with the recommendations made in 2003 are the focus.

Investigation

The AFAC visited the Auditor-Controller Department on February 22, 2005. Separate discussions were held with the Auditor-Controller and with the Supervisor Auditor Accountant.

It was reported to the AFAC that implementation of the open series system was near completion, with only the purchase order software module still under development. This module will serve to automate the process that Butte County employees use to make the routine purchases necessary for the everyday function of county government. Once this module is functioning, the need to make purchases in advance of the normally required documentation will be reduced.

The AFAC was given a demonstration on how users within the several Butte County government departments will use the open series purchase order module. Data tables containing information for vendors, shippers, and the various commodities procured are generated. Auditor-Controller Department personnel verify all data before it becomes part of the primary database. A paper trail is generated for all database changes. The Unix/Informix database system is used for coordination of the open series system with other related Butte County government computer systems. Upon inquiry, the AFAC was told that

2004-2005 BUTTE COUNTY GRAND JURY

computer terminals accessing open series software would remain active indefinitely when unattended.

The 2002/2003 Butte County Grand Jury recommended that an interdepartmental body for computer information exchange be created. Subsequently, the Open Series User's Group was formed. The AFAC was told that the Auditor-Controller is an attending member of this group and that any Butte County employee in need of open series system information was encouraged to attend.

The 2002/2003 Butte County Grand Jury also recommended that an Accounting Policies and Procedures Manual be produced. This was done, and the Auditor-Controller delivered to the AFAC a current copy. It consisted of a Butte County Auditor's Manual and the Accounting Standards and Procedures for Counties from the California State Controller's Office.

Findings

1. Fiscal limitations are a factor in the development and maintenance of Butte County computer systems.
2. Communication between Butte County government departments and the Auditor-Controller Department, regarding the use of computer software systems, is still lacking. Users in other departments are not aware of capabilities of the software used in the Auditor-Controller Department.
3. Computer system security is vulnerable in that signed on, but unattended, terminals are accessible by unauthorized personnel.

Recommendations

1. The Open Series User's Group should encourage users in other Butte County departments to seek the training necessary to fully utilize existing systems.
2. A process whereby unattended computer terminals lock and require users to re-authenticate before further use should be implemented.

Responses Required (Penal Code § 933 & 933.05)

Butte County Auditor-Controller
Butte County Board of Supervisors

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DOWNTOWN CHICO PARKING

Reason for Investigation

The Grand Jury responded to a concern regarding the lack of adequate public parking in downtown Chico.

Background

As the full time resident and student populations have increased in Chico, parking in the downtown area has become more of a challenge. On street parking is very limited and parking facilities inadequate.

Investigation

Reviewing the Chico General Plan the Grand Jury found the situation addressed as follows: "Expand public parking programs for the downtown and coordinate parking with the roadway and transit systems and pedestrian circulation facilities." (T-G-22, T-G-24) "Locate parking facilities within acceptable walking distances of the facilities they are expected to serve." (T-I-58)

Plans are being reviewed by the City of Chico on a parking structure to be built on Wall Street between East 2nd and East 3rd Streets in downtown Chico. This location is presently being used as a single-level parking lot accommodating 165 vehicles. The proposed structure could accommodate an additional 450 parking spaces with future needs in mind. Discussion and public input is being brought forth on this issue.

Another site being investigated is on West 2nd Street across from the California State University, Chico (CSUC) campus. The City of Chico and CSUC have recently agreed to work together on a proposed multistory parking facility at this location.

Findings/Recommendations

1. The Grand Jury recommends that the City of Chico continue to get public input on the Wall Street location to most equitably meet the needs for present and future growth.
2. Continue to work with CSUC in furthering joint efforts in addressing parking issues in and around the downtown and campus areas.

Response (Penal Code § 933 & 933.05)

None required

2004-2005 BUTTE COUNTY GRAND JURY

City of Chico Planning Department

Reason for Investigation

The Grand Jury received several letters in the late summer and fall of 2004 from a concerned citizen regarding the obstacles faced with development of his property and annexing it into the City of Chico. He stated the process was unreasonably slow and expensive and that there seemed to be lack of accountability on the part of city officials. In addition there seemed to be inconsistencies with the interpretation of the Chico General Plan as related to his project.

Background

The property owner had purchased the property with the intent of developing it to standards of the surrounding upscale neighborhoods. After all preliminary reviews were completed the project was presented to the City of Chico Planning Department for their final review. According to the property owner it was not until this final review that he was presented with restrictions that had not been brought to his attention in the prior two years of the review process, specifically building height restrictions and a gated community restriction.

The proposed development is situated between a neighborhood in the county and a gated community in the Chico city limits which was approved prior to the existing General Plan.

The property was originally in the county. The owner decided to develop by city standards in order to be able to annex to the city and thereby be eligible for city services.

Investigation

The problem seemed to be one of conflicting General Plan policies and their interpretation. On the one hand the General Plan addresses the preservation of the character of established neighborhoods - "Preserve the scale and character of established neighborhoods. With growth, there is a need to ensure that the character of established neighborhoods is not lost." **Guiding Policies: Residential Land Use (LU-G-6).**

At the same time the General Plan addresses restrictions and limitations – "Blend foothill development with the surrounding landscape and topography and diminish its visual prominence, from the valley floor." **"2 Community Design Element" Guiding Policies: Foothill Development.** Pg. 2-4, (CD- G-71) and ... "Gated neighborhoods isolate parts of the community from others and will not be allowed" (LU-G-10) "Mark major entries to neighborhoods, but discourage the

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use of high walls and gated entries which isolate areas from one another and create an unfriendly appearance.” **Guiding Policies: New Residential Neighborhoods** (CD-G-47) This conflict created a confusing situation for the property owner as to what the existing General Plan allows for or restricts.

State laws mandate many of the processes. Many departments and their mandates are involved: California Environmental Quality Act, Environment Impact Report, Planned Development, and Deposits for Parcel Maps. Additionally, the Planning Department has a legal responsibility to abide by guidelines set forth in the General Plan.

If appeals are made it costs additional time and money to go through the process. In addition to a \$350 fee to appeal, expenses are incurred by staff and are billed based on an hourly pre-established rate. The Grand Jury heard testimony the billing process could also be confusing. Billing amounts are not always clearly substantiated or explained to the applicant; supporting documentation does not appear to be sufficient.

Findings

1. The land development process can be complicated and confusing especially for those new to the business. Protocol is established but is very involved. The process is lengthy as it must be reviewed by many departments - Planning, Fire, Public Works, Environmental Health, etc., before being presented to the Planning Commission for final review.
2. Delays are an inherent problem due to the complexity of the process.

Recommendations

Provide better clarification and explanation to property owners/developers as to the probable time frames and fees involved with their projects at the onset of the review process.

Responses Required (Penal Code § 933 & 933.05)

Chico Planning Department
Chico City Council

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Butte County Clerk Recorder

Reason for investigation

The Grand Jury elected to look into the voting process and how it is administered by the County Clerk's office and observe a random sampling of polling places in the county to see if the election was conducted in a legal and efficient manner.

Background/Investigation

A team of Grand Jury members attended a training seminar for election workers on October 26, 2004. This training was deemed very useful and, since it was paid for by a grant, no financial impact was suffered by the clerk's office. Teams of Grand Jury members chose 22 polling sites at random in the county to visit on Election Day.

Findings

Training being offered to poll workers was pertinent and up to date. It was presented in a professional format and in an easy to understand way.

Grand Jury members observed the following at the polling sites visited:

1. Signs were placed according to law.
2. Polling staffs were knowledgeable, courteous, and helpful.
3. Ballot boxes were locked and placed in positions where they could be watched at all times.
4. There was no loitering or campaigning near the entrance to the polling sites.
5. The voters were able to vote in a reasonable amount of time.
6. The election appeared to be run in an efficient and professional manner.

The Registrar of Voters believes electronic voting will soon become a secure and reliable method of conducting an election and adopting this system will certainly save time and money.

The clerk and her staff should be commended on the professional conduct of the 2004 general election.

Recommendations

None

Response required

None

2004-2005 BUTTE COUNTY GRAND JURY

Butte County Veterans Memorial Halls

Reason for investigation

Members of the 2004-2005 Grand Jury were concerned about previous Grand Jury reports as they relate to the physical condition and future planning for veterans halls. This Grand Jury was compelled to revisit facilities to follow up on prior recommendations and perhaps lend additional insight into solutions that have yet to be implemented or contemplated to solve some of these known problems.

Background

Veterans Memorial Halls (VMH) are in our communities for the purpose of serving as a gathering place for those who have served our country in the armed forces and secondarily as community halls for everything from weddings to dances to voter polling places. The county is legally obligated to provide for the continued existence of these halls. (State of California's Military and Veterans Code 1260-1266) The Veterans Halls of Butte County are maintained through contractual agreement. The county governing body has assigned its building services maintenance division responsibility for their maintenance and repair and has allocated a limited budget to keep them in order. It is well known that the buildings are not Americans with Disabilities Act (ADA) compliant. Several have issues surrounding availability of parking. The majority of the buildings were constructed more than 30 years ago. Time has taken its toll on all of them. Given that all governmental agencies are in fiscal crisis from the federal level down to the local municipalities, it is not unexpected that these venerated old structures are facing a crisis of their own.

The County Building Services Maintenance Division has many structures it is responsible for. Due to budget constraints VMH receive only basic repairs and their plight has not raised enough political concern to effect change in the status quo. A contingent of veterans and county residents desire to see the old halls put into good working order and upgraded as necessary. No one has yet generated enough energy to overcome the inertia of public opinion, find grant moneys, write proposals, fundraise, lobby lawmakers, and plan.

Investigation

Members of the Grand Jury visited all the VMH of Butte County; while there a walk through of the halls was done to evaluate the extent of needs these halls have for compliance with the ADA, structural integrity fixes, remodeling, and other issues. The Grand Jury also conducted an interview with the County Veterans Service Officer and with various personnel in the County Facilities Maintenance Division.



Findings

1. The halls are used infrequently and they generate revenues that equal about ten percent of what they require in expenditures for “Band-Aid style” upkeep; they only bring in about \$25,000 per year in revenue when the basic upkeep budget is just over \$200,000. The remainder of those expenditures comes from the county general fund.
2. There is no coordinated and cohesive management and marketing structure in place to control the maintenance and use of the VMH. No single department head is in complete charge of the halls.
3. We were unable to find anyone who is willing to take the responsibility or expend the necessary energy to fight for change in policy or disruption of the status quo as it relates to these halls.
4. No commission or committee has been formed nor any individual appointed to focus on the issues.
5. Several of the memorial halls are physically deteriorating to the point of being uninhabitable due to lack of upgrades, maintenance, and long range planning. Without consulting contractors or engineers, it is apparent to even the layperson that the cost for upgrades will certainly cost several million dollars.

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6. All halls are out of compliance with federal ADA laws and do not meet their minimum requirements even though there are a tremendous number of living disabled veterans. Given the aforementioned, liability exposures remain for the county since there have been minimal upgrades undertaken.
7. Given the current uses of the halls and level of revenues generated by their use, it would be difficult to justify allocating the necessary county tax dollars to make the necessary repairs and changes.
8. All of the VMH are far larger than the needs of the veterans groups using them.
9. No plans are in place to make the halls more self-sufficient or to make them less of a drain on the general fund.
10. We found no individual who could demonstrate any knowledge of possible grants from state or federal sources, which may be available to help the county address, the issues facing these halls.

Recommendations

1. Appoint a single qualified county employee to oversee, be responsible for, and to interface with supervisors, commissions and state government for all aspects of the Butte County VMH.
2. Use stakeholders to come up with a five and ten year master plan for the use, maintenance, upgrade, or sale of the current halls.
3. Solicit veterans and county residents' assistance in finding long term solutions to issues surrounding these halls through formation of a council/commission whose findings and recommendations would be binding on the county.
4. Seek federal and/or state aid in obtaining funds to either upgrade the existing structures, or to fund a move into smaller halls.
5. If the sale of the existing halls with the plan to replace them is possible:
 - a. Form a dedicated veteran's council/commission to determine the veteran's facilities needs.

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- b. Use the proceeds of any sale to lease or buy smaller facilities, which would meet the criteria of having adequate parking and compliance with the ADA.
- c. Seek both state and federal grants to augment project funding.
- d. Place the veterans' council under the responsible department head to provide hands-on monitoring of the physical use and security of the halls.
- e. Require the veterans groups using the halls to become more involved in the planning and daily welfare of the halls as the veterans groups are the prime users and beneficiaries of having veterans' halls
- f. Encourage veterans groups to reserve the hall less often during peak demand seasons or days of the week thereby making it possible to rent them more frequently, so costs for their upkeep may be defrayed to a degree.

Response Required (Penal Code § 933 & 933.05)

Butte County Board of Supervisors
Office of the County Administrative Officer
Veterans Service Officer

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High Price of Public Education in Butte County

Reason For Visit/Investigation

During the course of its term, the Grand Jury received several complaints about public schools in Butte County charging fees to attend classes.

Background

In keeping with the free school guarantee of the California Constitution, the State Board of Education has adopted California Code of Regulations, Title 5 § 350 ("Regulation 350"). Regulation 350 states: "A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law."

The leading case interpreting the Constitution's free school guarantee is *Hartzell v. Connell* (1984) 35 Cal.3d 899 ("Hartzell"), where taxpayers challenged fees imposed by a school district for participating in extracurricular music, drama, and sports activities. The court concluded that the guarantee includes "all activities which constitute an integral fundamental part of the elementary and secondary education or which amount to necessary elements of any school's activity." The court found that "extracurricular activities constitute an integral component of public education" and, consequently, the district's collection of the fees were prohibited since "[a] school which conditions a student's participation in educational activities upon the payment of a fee clearly is not a free school."

Investigation

On October 22, 2004, the Grand Jury sent questionnaires to 53 schools in Butte County asking what fees are charged for enrollment in classes and for which classes. Additionally, in October the Grand Jury reviewed the websites of the Butte County schools (where available) and documented those schools that charged fees for their curriculum.

Responses from 48 Butte County schools were received within 21 days; the final response was received on January 6, 2005. From the responses, 19 schools indicated they charged some type of fee, while 34 schools charged no fee. Since the majority of schools charging fees were located within the Chico Unified School District (CUSD), the Grand Jury decided to focus the investigation on CUSD.

On December 17, 2004, the Grand Jury interviewed two principals, the Assistant Superintendent - Educational Services and the Director of Elementary Education of CUSD. In the months of January, February, March, and April of 2005, a total of eighteen individual interviews were conducted of teachers, counselors, principals, vice principals, police officers, comptrollers, superintendent, assistant

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superintendent, coaches, and activities directors. All interviews were conducted under oath.

Additionally, the Grand Jury used legal counsel to research State of California Codes, Regulations, Attorney General Opinions, and California court decisions related to public schools and their legal ability to fund their programs through the imposition of a fee based curriculum. All of the decisions and regulations provided by counsel showed that unless the legislature specifically approved a fee to be charged it was not a legal fee. Exhibit A contains a chart of fees specifically authorized by the legislature.

Findings

1. Schools must offer all curriculum and extra curricular activities free of charge.
2. While schools may depend on donations, donations are voluntary by definition.
3. Should donations not be sufficient, schools must choose which programs not to offer.

Recommendations

Included in later reports

Response Required (Penal Code § 933 & 933.05)

None

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Exhibit A

The district shall not charge fees, which are not specifically authorized by law. (Code of Regulations, Title 5, Section 350) The following fees and charges are permissible if approved by the Governing Board:

1. Accident and medical insurance premiums. (Education Code 32221)
2. Expenses of students' participation in a field trip or excursion to another state, the District of Columbia or a foreign country. (Education Code 35330)
3. School outdoor science camp programs operated pursuant to Education Code 8760-8773. (Education Code 35335)
4. Personal property of the district fabricated by students, at cost. (Education Code 17551)
5. Home-to-school transportation. (Education Code 39807.5)
6. Transportation to and from summer employment programs. (Education Code 39837)
7. Rental or lease of personal property such as caps and gowns used by seniors in graduation ceremonies. (Education Code 38119)
8. Deposit for band instruments, music, uniforms and other regalia, which school band members take on excursions to foreign countries. (Education Code 38120)
9. Fees for community service classes. (Education Code 51815)
10. Actual costs of duplication for copies of public records, student records or other materials. (Government Code 6257, Education Code 49063)
11. Parking on school grounds. (Vehicle Code 21113)
12. Food sold at school subject to restrictions specified in law. (Education Code 38080-38085, 49490-49493, 49500-49505, 49530-49536, 49550-49560; Code of Regulations, Title 5, Section 15500-15501, 15510, 15550-15565)
13. Fines or reimbursements for lost or damaged district property. (Education Code 19910-19911, 48904)

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REQUIRED PHYSICAL EDUCATION UNIFORMS CHICO UNIFIED SCHOOL DISTRICT

Reason For Visit/Investigation

The Grand Jury received several citizen complaints regarding junior and senior high schools in the Chico Unified School District (**CUSD**) charging for required physical education (**PE**) uniforms. The complainant asked why some parents had to pay while others were eligible for fee waivers and why students were being graded down for failure to wear the required uniform.

Background

In keeping with the free school guarantee of the California Constitution, the State Board of Education has adopted California Code of Regulations, Title 5 § 350 ("Regulation 350"). Regulation 350 states: "A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law."

The previous report, **The High Cost of Public Education in Butte County**, cites court decisions and government codes that permit a school district to charge fees only for items specifically authorized by the legislature. The Grand Jury obtained case law and Attorney General Opinions stating it is illegal for a student's grade to be affected by failure to purchase materials. California law and judicial decisions clearly state all materials required for a class, must be provided by the school or district free of charge.

Investigation

On October 19, 2004, the Grand Jury studied web sites for Chico High School (CHS), Pleasant Valley High School (**PVHS**), Bidwell Junior High School (**BJHS**), Chico Junior High School (**CJHS**) and Marsh Junior High School (**MJHS**) to determine the publicized policies regarding PE uniforms.

In the months of January, February, and March of 2005, the Grand Jury interviewed principals, PE teachers, comptrollers, and district personnel from CUSD to determine how schools can legally require the purchase of standard uniforms for PE, how pricing is determined, and if grades were adjusted downward for non-compliance.

Pleasant Valley High School charges \$15 for a shirt and shorts uniform set. The 2004/2005 Curriculum Handbook states, "The required gym uniform is a gray t-shirt, blue shorts, and gym shoes. Clothing is to be labeled *Pleasant Valley PE*."

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Chico High School charges \$16 for a shirt and shorts uniform set. The 2004/2005 catalog states, "CHS gym uniform required. Chico High Students enrolled in Physical Education are required to wear a school-wide uniform, which can be purchased, at school in the CHS Student Activity Center or the Comptroller's office between 8:30 a.m. and 12:30 p.m. Shorts: Red or Black with CHS logo; Shirt: Gray with CHS logo; Shoes: Laced athletic shoes; Socks: Any; Winter: Gray Sweats, Gray Sweatshirt (worn over uniform)." Uniforms may also be purchased online through an e-commerce site that the Associated Student Body maintains. (See Exhibit A)

According to Chico High PE teachers, 5 points are deducted per day for every day a student does not wear the required gym uniform. CHS requires students to apply for a waiver of fees for the PE uniform if they cannot afford one. The only financial question on the application asks, "Our family is eligible for free/reduced lunch (please circle one) yes – no. If you circle no, you must explain why you are requesting a waiver." Students who receive waivers may receive one new or used uniform per year; the new uniforms, according to the Physical Education Department Chair, are paid for by a \$3.00- \$3.50 markup in the price of uniforms sold.

Marsh Junior High School charges \$25 for their uniform set.

Bidwell Junior High School charges \$18 for Bidwell-logo PE clothes. The parent letter dated August of 2004 stated their uniform or a similar uniform is required for students. Their course catalog state, "Wearing PE clothes are required. The PE uniform consists of black shorts and a gray shirt. Bidwell Junior High School logo t-shirt and black gym shorts can be purchased any time that the student payment window is open."

Chico Junior High School charges \$25 for their uniform set.

More than one CUSD district/site administrator gave the Grand Jury a copy of the California Department of Education (**CDE**) issued Fiscal Management Advisory, 97-02 that discusses school fees. Under the unallowable fees section, the Advisory specifically states, "standardized gym suits for physical education classes when such standardized clothing affect the student's grade" were prohibited.

Findings

1. Requiring and then charging for physical education uniforms is not consistent with the California Constitutional guarantee of a free school system in California, Regulation 350, Education Code sections 38118 and 60070. This view is consistent with the list of items for which the Attorney General concluded schools could not charge fees ("...gym suits and shoes for physical education classes ..."39 Ops. Cal. Atty. Gen. 136 at p. 138

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(1962)). In addition, Education Code Section 49066 states "No grade of a pupil participating in a physical education class, however, may be adversely affected due to the fact that the pupil does not wear standardized physical education apparel where the failure to wear such apparel arises from circumstances beyond the control of the pupil." Accordingly, we conclude that a school may not charge for a physical education uniform that students are required to wear.

2. Grades of students at CHS were adversely affected by the policy of losing 5 points per day for failure to wear the school required PE uniform.
3. Students at CHS are currently required to apply for a fee waiver to obtain a free school wide physical education uniform; one question on the waiver asks if the student qualifies for free/reduced price lunch. Both the fee waiver process and the questions regarding the free/reduced lunch are problematic; fee waivers should not be offered as most fees are not appropriate, and those authorized by law may not be used to prohibit a student from participating in curricular or extra curricular activity. Additionally, the Grand Jury learned during the course of its investigation that the confidentiality laws imposed by the Federal Government on the free and reduced lunch programs were due to concerns of discrimination or other civil rights violations.
4. The course syllabus BJHS, PVHS, and CHS all state school wide physical education uniforms are required.

Commendation

In December of 2004, after the Grand Jury letter and subsequent interview, the Principal of PVHS immediately made a school policy adjustment. The new policy prohibits requiring students to purchase the school wide PE uniform as long as the student brings a change of clothes to use for physical education exercises. The PVHS Principal published a letter to parents in the December of 2004 issue of Viking Voice as well as article in the December of 2004 student newspaper, The Saga. The Grand Jury believes that this principal clearly understands the law with regard to this issue and we applaud his quick decision-making.

Recommendations

1. All CUSD schools should immediately ban the practice of requiring students to purchase a specific uniform.
2. Any public school that requires a specific school PE uniform shall provide the uniform to all students free of charge.

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3. The Superintendent of CUSD should report to the school board on the district's compliance with state law regarding PE uniform policy prior to the next school year.
4. CUSD should immediately correct the grades of all students, current and previous, and notify all students of grade adjustments when points were lost due to not wearing the required school-wide physical education uniform.
5. The fee waiver question "our family is eligible for free/reduced lunch" should be removed from all CHS applications.
6. The practice of waiving fees for classes should be discontinued, as there are no legal fees for classes.

Response Required (Penal Code § 933 & 933.05)

Board of Education CUSD
Superintendent CUSD

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Exhibit A

PHYSICAL EDUCATION

NOTE: CORE PE courses meet CUSD PE requirement.

55-450 FRESHMAN PHYSICAL EDUCATION (Y) YEAR (9-10 REQUIRED) VARIABLE CREDIT. Meets PE requirement.

55-455 SOPHOMORE PHYSICAL EDUCATION (Y) YEAR (9-10 REQUIRED) VARIABLE CREDIT. Meets PE requirement.

No prerequisite. Co-educational. Core program stresses development of skills in a wide variety of activities in an effort to allow the student to find areas of enjoyment and fulfillment in use of leisure time and to develop understanding and awareness of the importance of personal fitness. Activities include: team sports, individual sports, dance and weights and fitness. Elective classes in gymnastics and leisure sports are available during the 4th quarter. A passing grade on the State Physical Fitness Test and on the written exam covering the physiology of exercise, the theories of conditioning, and exercise programs for personal fitness are required of all 9th and 10th graders.

CHS Gym uniform required. Warm clothing recommended for use in outdoor cold weather programs.

55-460 JUNIOR/SENIOR CORE PHYSICAL EDUCATION (Y) YEAR (11-12) VARIABLE CREDIT. Meets CUSD Physical

Education requirement. No prerequisite. Co-educational. Core program for juniors and seniors in need of PE credit to meet graduation requirement. Students select two activities per quarter from options available. Instructional areas include: team sports, individual and dual sports, fitness and conditioning, gymnastics, dance and leisure sports.

CHS Gym uniform is required. Warm clothing recommended for use in outdoor cold weather programs.

Physical Education Uniform

Chico High School students enrolled in Physical Education are required to wear a school-wide uniform which can be purchased at school in the CHS Student Activity Center or the Comptroller's office between 8:30 a.m. and 12:30 p.m.

SHORTS: RED or BLACK WITH CHS LOGO

SHIRT: GRAY WITH CHS LOGO

SHOES: LACED ATHLETIC SHOES

SOCKS: ANY

WINTER: GRAY SWEATS, GRAY SWEATSHIRT

(Worn over uniform)

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STUDENT FEES AT CHICO SENIOR HIGH

Reason For Visit/Investigation

The Grand Jury received several citizen complaints regarding schools in the Chico Unified School District charging fees for students to attend classes. One of the complaints specifically questioned the practice of Chico High School's Smaller Learning Communities requiring fees, as well as the practice of determining and allowing fee waivers for some students.

Background

A preceding Grand Jury report, The High Price of Public Education in Butte County, provides background for the legal ability of a public school to raise money by imposing fees on students. Chico High School (**CHS**) charges a wide variety of fees, but the costs associated with the Smaller Learning Communities (**SLC**) are by far the highest. The SLC concept is to provide a vocationally targeted specialized education to a cross section of ages, grade levels, and a range of high performing to "at risk" students. Chico Unified School District (**CUSD**) has been receiving grant funding (also referred to as categorical funding) to promote the success of the SLCs.

Investigation

CHS operates several SLCs that charge student fees. The SLC for Academy for Communications and Technology (**ACT**) charged 225 students a \$75 activity fee. Also, ACT charges a one time \$25.00 new student fee. In 2004, ACT charged 89 students this fee. The total collected for the SLC ACT was \$19,250 through May 11, 2005. The SLC, for Chico High West (West) charged 160 students an activity fee of \$100 for a total collected of \$16,000 through May 11, 2005. The SLC referred to as MASH (emphasizing Medicine, Athletics, Science and Health), charged 61 students an activity fee of \$25 for a total collected this academic year of \$1,525 through May 11, 2005.

In the course of this investigation, many of the schools cited in the previous report stated they were not in legal compliance with various fees being charged. Most schools immediately changed the language they used, substituting the word "donation" in place of "fee" without any other noticeable change in policy. Since the fall of 2004 the CHS web site was changed to indicate that the activity fees were in fact a donation. The high school's web site, after October 19, 2004, stated, "Payment is not mandatory to participate in this class. All donations will be used to enhance the classroom experience through field trips, projects, and other activities." It became unclear to the Grand Jury, as well as to staff interviewed, how and when the fee became a donation and how practices had actually changed to make the fees voluntary.

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In the September 2004 issue of Panther Pride, the parent newsletter, (page 5), the SLC ACT talked about how fees of \$75 and \$100 could actually be paid. Options of paying the CHS comptroller or making a tax-deductible donation to the North Valley Community Foundation (**NVCF**) were listed. The article then stated that full or partial waivers were available. The article finished with how the fees would be used to offset “the ever rising cost of supplies, postage for mailings to keep in touch with ACT parents, extended lab hours, increase in both the number of labs and lab use, and the critical need for ongoing maintenance of the labs and recording studio. There are also cameras and many printers for unlimited student use in all ACT labs, including laser printers and color laser jet printers. The activity fee contributes significantly to the quality of the students’ technical needs and the program as a whole.”

The Grand Jury obtained both an approved fee waiver form, available at the comptroller’s office (see exhibit A), and a list of students approved for fee waivers distributed to teachers during the 2004/05 school years at CHS. The fee waiver requests the students disclose if they are an eligible recipient of free and/or reduced lunch. This information was available to teachers at one time, but is now considered highly confidential by the Federal Government. Ten students obtained fee waivers for ACT and MASH. The total donations waived for SLCs at CHS were \$850. In addition to waiving fees for SLCs, CHS also waived \$1668 for other classes requesting fees.

As of May 11, 2005, fees collected for the 2004/05 school year totaled \$28,889 at CHS and are listed below:

Art Design	\$ 1605
Stained Glass	871
Advanced Stained Glass	45
Ceramics	3135
Ceramics 2	90
Humanities Art	550
Painting	525
Painting 2	90
Drawing	2610
Drawing 2	360
Art Punch Card	40
Sculpture	840
Computer Art	1770
Computer Art 2	80
Woodshop	1510
PE Uniforms	\$14,768

The 2004/05-course catalog for Glass Design and Advanced Glass Design states, “Students must pay a materials fee of \$15 per year, in addition to purchasing individual materials such as glass, foil, and solder”.

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Teachers frequently request and collect classroom fees (donations) in the classroom in spite of the requirement that all fees be paid via the Associated Student Body (ASB) comptroller. Many teachers believe that their students would not be responsible enough to pay the fees (donations) at the comptroller's office. Six teachers told us that the amount of money given by CUSD and passed on to their classroom accounts was not enough money to run their classroom and provide necessary supplies to students.

The Grand Jury wanted to see what the student fees (donations) were going to fund. Large purchases from recent years have been:

- On September 15, 2003, ACT transferred \$5,200 of student ASB funds to the CUSD to purchase a 1988 Ford bus. The district currently holds title, registration, and insurance for this vehicle. On March 1, 2005, the Grand Jury was able to tour this bus in its resting location on CHS campus. The vehicle is currently not in condition to drive and most recently was used as a set for a video production. When discussing this purchase with the assistant superintendent, chief financial officer, and superintendent, we were assured this vehicle was a van and not a bus. However, the title and registration use the abbreviation BU, which is the DMV abbreviation for bus, not van.
- On November 26, 2002, ACT purchased ten video cameras with \$4,008.80 of ASB funds. These cameras were used during the day-to-day class of ACT. The Grand Jury was able to physically view only two of the ten cameras in the classroom. One camera had been checked out; the checkout system was to write down the name of the student, a camera number on the corner of a torn loose-leaf paper and put it in a desk drawer. Those interviewed could not explain where the seven remaining cameras were. District policy states that equipment purchased with ASB funds becomes district property. Inventory tracking is not required for items under \$500 in value.
- From August of 2002 to May of 2005, ACT used ASB funds for coffee, food, and brunch supplies.
- From August of 2002 to May of 2005, West used ASB funds for dinners, BBQs, and lunches.
- Large amounts of ASB dollars are being transferred to the district at year-end. Many of these transfers are being listed as charges to cover negative balances in classroom accounts. Others are listed as "copy" charges.

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When a fee (donation) is paid, the comptroller tracks the amount to the class, teacher, and student's name/ID number. Special projects or events are tracked by sub-accounts.

Findings

1. Substituting the word "donation" for fee and requiring donations continues to leave CHS in a position of questionable legal compliance.
2. CHS is asking students to identify if they are the recipient of free or reduced lunch when applying for fee (donation) waivers.
3. The current system of funding curricular activities through ASB dollars inadvertently puts educators in a position of having purchasing power and requiring them to be responsible for and account for student funds. The Grand Jury believes this cannot help but undermine the quality of education teaching time in the classroom and generates the possibility of teachers inadvertently violating California law.
4. The process of raising money and soliciting donations still remains connected to individual students as their responsibility; this is not consistent with a free public education/non-fee-based curriculum.
5. Teachers believe that a quality curriculum cannot be provided without ASB funds being transferred into their district classroom accounts.

Recommendations

1. CUSD should establish a district-wide policy for handling donations to classrooms that is not fee based and does not create the appearance that it is the student's responsibility to fund his/her own learning experience.
2. Donations should not be tracked by student name/ID number, since this policy allows staff to have information on who has donated and who has not.
3. The purchase price of the bus bought by CUSD for ACT with ASB funds should be restored by CUSD to the ACT account. This bus is clearly owned by CUSD and has never benefited the students who raised the money.
4. Since school libraries can account for books checked out and SLC ACT is unable to track inventory and issue equipment on a daily basis needed for classroom activities, all inventories should be moved to the library until a proper checkout procedure can be established in the classroom.

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5. Fee waivers should not have to be given or have to be requested for students not wishing to donate to their respective SLC or classroom.
6. Chico High should immediately stop charging mandatory classroom fees as in Glass Design and Advanced Glass Design.
7. Refunds should be provided to families who have paid fees that are not specifically authorized by law. All future fees or requests for funds should include a justification that the charge is a legal fee. Writing and drawing paper, pens, inks, blackboard, blackboard erasers, crayons, lead pencils, and other necessary supplies for the use of the schools, shall be furnished under direction of the governing boards of the school district.
8. CHS should abide by the district adopted Fiscal Crisis Management Assistance Team, referred to as FCMAT, student body manual, Associated Student Body Accounting Manual, particularly the recommendation that maintenance costs of district owned equipment should not be paid for with ASB money.
9. All donations collected on campus should be paid to the comptroller and deposited into ASB accounts.
10. One wishing to donate to CHS Foundation via the NVCF should send any monies directly to the NVCF. They should not be collected on campus or associated with student fundraising.

Responses Required (Penal Code § 933 & 933.05)

Board of Education CUSD
Principal CHS
Superintendent CUSD

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Exhibit A

Dear Parent,

Your student has requested a fee be waived for one of his/her classes at Chico High School. In order to do this we need some information from you. Please complete the fee waiver below and return it to Chico High School Comptroller's Office, 901 The Esplanade, Chico, CA 95926. If you have any questions, please contact Robyn at 891-3032.

CHICO HIGH SCHOOL
APPLICATION FOR CLASS FEE WAIVER 2004/2005

STUDENT'S NAME: _____ ID#: _____
REQUESTING WAIVER FOR: _____ (indicate exact class)
GRADE: _____ TEACHER: _____ FEE AMOUNT: _____
PARENTS NAME: _____
PARENTS ADDRESS: _____

Please complete the following:

Our Family is eligible for free/reduced lunch. (Please Circle one) YES NO

If not, please explain request for waiver: _____

I certify, under penalty of perjury, that the information provided on this application is correct.

Signature of Parent

Date

FOR SCHOOL USE ONLY - DO NOT WRITE IN THIS BOX

Counselor: _____ Admin: _____ Approved: _____ Denied: _____
Comptroller: _____ Date Processed: _____ Dept: _____
Date Teacher Notified: _____ \$ Amount: _____ Acct #: _____

Notes: _____

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Students Get What They Pay For

Reason For Visit/Investigation

The Grand Jury became aware of reports of significant sums of money missing from various schools within the Chico Unified School District (CUSD) during its inquiry into the district practices of maintaining a fee based curriculum.

Background

With reports of missing money at Sierra View Elementary School (SVES) last year, Marsh Junior High School (MJHS) and Chico Junior High School (CJHS) this year, the Grand Jury attempted to understand how the CUSD handled, and their auditors accounted for, Associated Student Body (ASB) funds. Last year over \$9,000 was reported missing from SVES. This year, \$26,566.81 has been reported missing to the Chico Police Department (incident #05-652) from MJHS and CJHS. Additionally, the Grand Jury received complaints that the District had misspent \$337,149 in categorical funds designated for the English Learners Program. The Grand Jury also learned during the course of this investigation that there were two failed audits for the school lunch program that could require the school to pay back approximately \$31,000 to date. State of California auditors will return for a third time in September of this year to expand their audit from four schools to eight schools to confirm compliance with state law.

On June 30, 2004, the accounting firm of Matson and Isom submitted to CUSD their report titled Findings on Internal Controls, which included findings on financial statements, audits, and reportable conditions (See exhibit A). Their audit concluded, "Without strengthening internal controls over cash receipts and disbursements, student body assets might not be properly safeguarded and expended for valid student body activities."

Investigation

In the months of December 2004 to June 2005, the Grand Jury interviewed principals, teachers, comptrollers, directors, assistant superintendent of human resources, students, parents and other district personnel to determine how cash is reconciled. The Grand Jury did not look into the missing funds at SVES, as court records confirmed that the missing money was Parent-Teacher Association (PTA) money that was the subject of a criminal act. (Butte County Case #CM020149) With regards to the monies missing from MJHS and CJHS, the Grand Jury interviewed investigating officers from the Chico Police Department in order to understand the nature of those money-handling procedures that they believed led to the loss of the money. This jury also looked into CUSD school board policies with regard to the "care and handling" of student monies.

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CUSD Board policy #3533 requires all employees handling monies to be bonded under a blanket fidelity bond in the amount of \$20,000. We learned during the course of our investigation that there were many cases where a teacher or comptroller had cash and checks that far exceeded this \$20,000 amount. For example, staff at MJHS reported having over \$100,000 in student funds on campus for several weeks. In yet another instance at Chico High School (**CHS**), the Choir director reported keeping \$23,321.79 with her for two weeks while she attempted to locate the offsite foundation to deposit the money after the foundation relocated their office. When she failed she deposited the money designated as 501(c)(3) donations into the ASB account instead.

It is the practice of those schools that we visited to issue three part pre-numbered receipt books to teachers that collect funds in their classroom. Choir, Parking, Key Club, Stage, Athletics and Yearbook had receipt books for collecting monies in the classroom at CHS. Classroom and materials fees are required to be collected by the comptroller of the school to be receipted in that office; however, we learned that many teachers would carry the checks down to the comptroller themselves, as they did not believe their students to be responsible enough to make the payment. For classroom collections, we found that the comptroller issues 3-part pre-numbered receipt books and once finished are returned for review. We found all money properly deposited with no discrepancies in Parking, Key Club, Stage, Athletics, and Yearbook.

Unfortunately, when we audited the Choir receipt books, we determined that 14 individual receipts were missing. In our investigation, we discovered that the Choir director had purchased her own pre-numbered receipt books, which consisted of only two parts and which were not issued from the comptroller's office. We believe the comptroller was unaware of these books being purchased until so informed during our inquiry. Further investigation found that some money had been deposited into the ASB by the CHS comptroller, while other money was carried off campus by a teacher to the North Valley Community Foundation (NVCF) for deposit in the Chico High School Foundation (CHSF) account for the Choir. This action was undertaken contrary to language on the fundraising request form approved by the CUSD School Board, which explicitly stated that all monies raised for the Choir China trip shall be deposited into the ASB account. The donations deposited in the NVCF account totaled \$67,238.67 as of April 14, 2005.

CUSD began a program in the 2004/05 school year, at its secondary schools, of billing 45% of the Comptroller's salary back against ASB. While California Education Code 48937 provides that the cost of oversight of ASB funds is an appropriate charge against the fund, few are apparently happy about it. One of the reasons given for using the offsite account was that CHS was billing for the Comptroller's salary by imposing a 5% fee on all monies collected to pay salary costs. NVCF appears to charge only 2%. We are not sure if the Choir director understood that the school had based the 5% on projections of cash flow to

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achieve the requisite amount, or that the 5% fee on the China Trip had been converted to a flat rate. The initial 5% share-projection had not been calculated based on the amount of cash required for the China Trip. Another reason cited to the Grand Jury for using NVCF was to encourage corporate donations. Donations to public schools are tax deductible for the same reasons that donations to 501(c)(3) organizations are deductible, but reportedly some corporate donors will only donate to foundations that can provide a 501(c)(3) receipt.

Our audit of the Chico High School Choir China Trip receipt books was inconclusive. It appeared that very little of the total monies raised (\$67,238.67) as of April 14, 2005 had come from corporate donors; rather, most had been collected in the classroom. It also appeared that at a certain point receipts were no longer issued for checks collected on campus. We came to learn from testimony that the "check was the receipt" and that audit controls were not required for "donations." We nonetheless proceeded with our audit attempt, using those reports generated to the last day that the two part books were utilized. Combining the receipts that were received online with fundraisers that were deposited with the ASB, and separately combining the receipts that were deposited to the foundation, the foundation donations added correctly to within \$50, but it appeared that the ASB expenditures for the \$100,000 China Trip currently exceed the balance of the Choir sub-account by a net amount of \$23,321.79.

Our review revealed to us that something was either very wrong, or that the responsible faculty member might have less bookkeeping experience than we. We learned through the exploration of this issue that the Choir director does maintain her own set of books. She stated to the Grand Jury that she did not feel the school's comptroller could do a good job keeping track of individual student's fundraising efforts over multiple school years and appeared annoyed by the notion of having to use the comptroller for accounting purposes. All we were ever shown was a Microsoft Excel spreadsheet that categorized by fundraising events in which a certain dollar amount was apportioned to each student in her program. Those events listed included candy sales, car washes, coupon books, Madrigal Dinner receipts, and the like. We were never able to understand the decision making process as to how monies were assigned per student, except that, apparently, car wash allocations were established by how much time students spent, and how hard they worked, at the car wash. We had and have serious concerns about the tracking methods being used as they appear to be a "gold star" system for rewarding and punishing the behavior of students.

The Choir director was asked about the shortfall in the ASB account when monies were being paid to World Travel (the Travel Agency for the China Trip). She stated, under oath, that she maintained a "slush fund" to cover short falls such as this. In her further testimony, she described the "slush fund" method as a borrowing of money from other students that were not going to China that year

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to pay for those who had not yet reached their goals. Those students who went to China without the necessary full amount recorded on her spreadsheet would thereafter be required to remit in full, or their high school diplomas would not be issued. Section 35330(d) of the California Education code states: "No pupil shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end, the governing board shall coordinate efforts of community service groups to supply funds for pupils in need of them. No group shall be authorized to take a field trip or excursion authorized by this section if any pupil who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds."

Returning to the \$23,321.79 discrepancy noted earlier in our report, the superintendent of the district, when asked about it stated that he would look in to it. His response in a subsequent letter was that the Choir director kept "excellent" records. At a subsequent meeting with the District Chief Financial Officer (**CFO**), which we felt began in a hostile tone, we were informed that we were comparing "apples and oranges." While we may have more expertise in fruit selection than accounting, we persisted and determined:

- 1) Monies collected were receipted to be deposited at the North Valley Foundation were deposited to the ASB in the amount of \$23,321.79.
- 2) The California Education Code requires that student-raised money be deposited in the ASB and be maintained in accounts insured by the Federal Deposit Insurance Company (**FDIC**). The Choir account was credited with approximately \$15 in interest in the 2004/05 school year as of April 2005.
- 3) The Choir Director undertakes and maintains her own unsupervised bookkeeping methods and receipt book. This teacher claims to have supporting receipts and documentation that she did not produce at the time of our review of her personal accounting system.
- 4) CUSD officials stated that they would investigate our concerns; we believe that their attempts to audit and account for these monies also have failed.
- 5) Around the time of our initial receipt book audit, a flurry of deposits and payments were made to World Travel from both the NVCF and the ASB. A \$45,000 payment from NVCF was issued with only the Choir Director's and NVCF treasurer's signature. It was missing the required signatures of a Chico High School Foundation Officer and a North Valley Community Foundation Officer.
- 6) The Chico High School Principal is a member of the Board of the Chico High School Foundation and typically authorizes payments. CUSD officials claim that the district has no liability for accounting for these

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funds. CUSD Board Policy 2210 states that the principal is responsible for a uniform system of accounting.

- 7) The monies deposited in the NVCF by the choir teacher were collected on campus. The checks were made payable to Chico High School and were the result of a fundraising letter printed on CUSD letterhead and distributed by the choir teacher.

Exhibit B at the end of this report contains the letter that the Choir Director called, "their best fundraiser." According to the CFO, legal counsel for the CUSD advised that monies generated by this letter were a donation and that providing students with letters to mail to friends and family was not a fundraiser. The letter was on CUSD letterhead, distributed by the Choir Director in class, and suggested using the CHS online shopping cart maintained by the ASB, and directly deposited to that account, to "purchase" a donation to the China trip. Once the money was deposited into the ASB account, it could not legally be transferred to the NVCF. Subsequently, the Choir Director, showing the online shopping transaction, wrote a receipt in the receipt books. She would then credit the donation to a particular student toward the \$1,999 per student needed for the trip.

We came to realize during our investigation that the China trip was only a small part of the accounting irregularities occurring within the CUSD. For example, Pleasant Valley High School (**PVHS**) audits indicate that \$15 unpaid classroom fees have been referred to a credit bureau for collection. That same school charges for textbooks as a regular policy. One of the books it charges for is a workbook that it receives free of charge, but it passes a \$1.25 per book "shipping" charge on to the students. California Education Code does not allow any required material or textbooks to be charged to the student. It also precludes deposits for anticipated "damage." The principal of PVHS stated that writing in a workbook is a form of damage. At PVHS, we obtained copies of communications between the principal and a teacher where the principal inquired why a student was told his grade would be lowered from an A to a C for non-payment of a classroom fee. The teacher explained that the student was not going to get a C as long as the debt was paid by the agreed set date. The Principal explained that fees can only be charged for material consumed and/or taken home, and they are required to provide students that cannot pay with a "reasonable classroom experience." Our legal counsel and research show that even this response is likely a rationalization; schools may only charge for materials "above and beyond" the required curriculum that may be taken home by the student. All CUSD staff interviewed were aware of the "take home" part of the clause and only recalled the "above and beyond" clause when we specifically asked about it.

Email communications obtained through Public Records Act request indicate that individual schools and district officials are having difficulty determining when ASB accounts or CUSD classroom accounts should pay invoices that are for fee-

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based curriculum. (See Exhibit C) It appears that at MJHS, the current directive is to pay for materials from the ASB. At CHS, large and frequent transfers of ASB funds to the district supplement the classroom accounts. In our opinion, the ASB Treasurer's log of student approvals for these transfers fall back in to the "apples and oranges" system of accountability discussed earlier. The CUSD CFO reports that the school initiates the request to transfer funds to CUSD accounts. It was our impression that most of the transfers occur in late June to "cover negative balances" in classroom accounts. Additionally, we learned that someone had made 40,000 copies of documents at CHS over a weekend using the student government billing code. The comptroller projected that as a result several thousand dollars would be transferred from the ASB to the CUSD to cover the negative balance generated. Allegations were made by parents and faculty at all of the junior and senior high schools that some teachers were obtaining personal "pocket cash" from ASB money in various departments. (See Exhibit D) These charges would be difficult to corroborate without a comprehensive audit.

Those financial reports provided by the CUSD upon our request that were supposed to disclose funding for classroom accounts were nonsense and non-specific to particular classrooms. However, an art teacher testified that her classroom accounts for art totaled approximately \$7,700 in 2000, but had been reduced to \$4,400 in the 2004/05 school year. A letter from another teacher disclosed classroom funding this year that equates to 25 cents per student per week for art supplies. CUSD officials stated that they projected future reductions of these accounts by 6% in the coming 2005/06 school year. One teacher appeared to be very fearful that the art program at the high schools would be shut down as the result of our investigations. The Superintendent of the District reported that salaries and benefits for the district were taking approximately 85% of the approximately \$100 million dollar general fund. The California Department of Education website reported that percentage as 80.5 from its latest data in February 2005 for CUSD.

It is the conclusion of our inquiry that CUSD officials, administrators, and teachers at the secondary schools do not believe they can continue to provide a quality education without students (and their parents) supplementing the classroom experience through a combination of voluntary donations and the coercive imposition of "fees." Other school districts in Butte County and California are apparently able to abide by the free school guarantee for their children as mandated under current California Law. We see no reason why CUSD should not comply. Disappointingly, our experience in this investigation disclosed a complacent and defensive tenor in many members of the district's school board and district office that may make problem solving and communication nearly impossible. We believe that the persistence in describing those problems we have outlined as "site issues" at the schools and "not their responsibility" reveals a failure in leadership that perpetuates a culture of

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unaccountability that may well continue until such time that parents refuse to pay to for their children to get a free public education.

Findings

1. The CUSD superintendent's office concurred in an April 7, 2005, response that "Funds collected from parents and students fundraising were deposited in both the CHS foundation and ASB accounts. Generally speaking, parent contributions went to the foundation and student-raised funds went into an ASB account, but CHS does not have specific records to show that. CUSD does not have a policy authorizing or not authorizing school involvement with Foundations." California law specifically prohibits the deposit of student-raised money in non-insured accounts outside of the ASB funding mechanism.
2. Allowing students to go on a field trip that has not been paid for by the students attending, and withholding diplomas from those who do not pay, places the district in a questionable posture. Attempting to put a site administrator/educator in a position of responsibility for enforcing school board policy and accounting for over \$100,000 in funds that are maintained under questionable practices does not improve that posture.
3. The current CUSD Board Policy for the required bonding of CUSD employees is insufficient for the large sums of money currently being handled by district employees.
4. Generally, receipt books and accounting methods, other than comptroller issued and approved systems, have been used for collecting and accounting for money.
5. NVCF is accepting checks made payable to Chico High School as part of a fundraising effort by CHS students and paying bills on behalf of CHS without requisite signatures.
6. CHS has no control over how NVCF invests their monies. According to FCMAT, it is illegal for any bank account associated with the district to be opened unless it meets specific criteria and is school board approved.

Recommendations

1. CUSD superintendent and school site administrators should abide by all of the adopted policies of the CUSD Board; if there is a policy that needs to be amended, it should be revised by the Board before procedures are altered.

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2. The ASB funds at all of the schools are ultimately the responsibility of the superintendent of the district and can be better managed by the CUSD business office. All school comptrollers and staff responsible for management of ASB funds should answer to the District Business Office. Training of the responsible staff should be standardized and complete, adopting a standard of best management practices approved by the CUSD School Board.
3. All monies generated by student activities should be deposited in the federally insured ASB account. Any and all donations to any foundation should be clearly marked as such on any check and delivered directly without the involvement of a CUSD employee during working hours. These donations should not be designated for the use of any specific student and applied only to the base amount of the cost of the activity.
4. A full and independent audit of all ASB accounts and accounting practices should be requested and directed by a committee of CUSD school board members. Audit results should be used to direct independent consultants to recommend a set of policies that comply with all legal requirements with respect to fees, donations, ASB accounting, and handling of cash and checks in the classroom. Independent consultants should monitor compliance of teachers, administrators, and district officials for not less than three years after the completion of the report.
5. Thereafter, annual training should be provided by CUSD for all CUSD teachers, administrators, and district office staff.
6. Only a district-designated comptroller/assistant should collect money and issue receipts to students. Monthly copies of reconciliation reports should be forwarded to both the CUSD Business Office and a subcommittee of the CUSD school board.
7. The use of the NVCF for accepting donations for classroom activities or field trips and paying for the classroom activities or field trips from those accounts should be discontinued. Those donations made to the foundation identified for a particular cause or purpose should be acknowledged by the CUSD School Board in a public hearing and deposited into the corresponding district or school account for which it was designated.
8. The practices of withholding diplomas and credit bureau reporting for students that owe fees should be discontinued immediately.
9. The CUSD manual, Parent's Rights and Responsibilities, should be updated to include specific language about donations and fees, a list of charges that the California Education Code explicitly allows with the

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corresponding code section, and a statement that all other charges are voluntary. This change should be reviewed and, adopted by the CUSD school board.

Responses Required (Penal Code § 933 & 933.05)

Board of Education CUSD

Principal CHS

Superintendent CUSD

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Exhibit A

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

June 30, 2004

*Chico Unified
School District*

SECTION II FINDINGS FINANCIAL STATEMENTS AUDIT

INTERNAL CONTROL (Student Body)

30000 (04-1)

Reportable Condition

Condition

Our tests of internal controls over student body accounts at Chico Junior High School, Fair View High School, Marsh Junior High School, and Pleasant Valley High School resulted in the following:

1. Cash receipts were not deposited in a timely manner. Four of ten cash receipts tested for Chico Junior High School were deposited more than one month after receipt. Seven of ten cash receipts tested at Fair View High School were deposited more than one month after receipt. Two of ten cash receipts tested for Marsh Junior High School were deposited more than one month after receipt.
2. Bank statements and student group accounts were not reconciled on a monthly basis at Chico Junior High School or Marsh Junior High School.
3. Student body purchase orders are not being properly authorized by student body officers at Pleasant Valley High School.

Criteria

Internal controls should be in place to provide for the following:

1. All student body checks and cash receipts should be deposited in a timely manner.
2. Bank statements should be reconciled on a monthly basis and agreed to the total of the student group account balances.
3. All student body purchases should be authorized by a student body officer.

Effect

Without strengthening internal controls over cash receipts and disbursements, student body assets may not be properly safeguarded and expended for valid student body activities.

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Exhibit A, page 2

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

June 30, 2004

*Chico Unified
School District*

Recommendation

Procedures should be implemented to strengthen internal controls over student body accounting records.

Response

The District's administration will conduct student body training for administrators, advisors, and student body controllers and will revise student body policies and procedures during the 2004-05 fiscal year to comply with the recommendation. The District will require the use of standardized student body accounting software for all secondary student bodies and will provide the training and/or review for all student body controllers. The District will require all secondary student body controllers to submit monthly general ledger reports that reconcile with the reconciled bank statements to the District Office.

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Exhibit B



Administrative Offices
1163 E. Seventh Street
Chico, CA 95928-5999

530/898-3000
fax 891-3220
www.cusd.chico.k12.ca.us

Chico High School
901 The Esplanade
Chico, CA 95926
(530) 891-3026
FAX (530) 891-3284
www.chs.chico.k12.ca.us

Dear Friends and Family of [REDACTED]

Chico High School's A Cappella Choir is going to China! In the spring of 2005, [REDACTED], along with 50 students will have the opportunity of a lifetime as she shares her music and goodwill on the major international educational tour. They will perform joint concerts with Chinese area high schools and youth choirs in Beijing and Shanghai. While in China, they will take in many of the thrilling sights, such as the *Great Wall*, the *Tianenmen Square*, the *Forbidden City*, China's Imperial Capital, and the *Yu Gardens* in Shanghai. This is an incredible opportunity for these young people to experience another culture first hand instead of just reading a text book about it.

Choir students are raising funds by singing at community events, selling program ads, washing cars, selling lollipops, and many more exciting projects. To make this happen, it will take determination, hard work and a lot of support from family, friends and the community. To fund the trip, [REDACTED] needs to raise a whopping \$1,999. She needs your help to reach her goal. Through her efforts and your support, she will experience pride in her purpose and the strength of community spirit.

You can give [REDACTED] the experience of a lifetime by making a tax-deductible donation. Make your check payable to Chico High School and send it to [REDACTED] or directly to Chico High Music. You may also make your donation on-line by going to <http://www.chs.chico.k12.ca.us> - select on-line payments and then go to "field trips." You will need [REDACTED]'s student number [REDACTED] to make an on-line donation. Your donation will go into her choir account and can only be used to support her trip. Thank you for your support for **China 2005**. And, thank you for investing in the life of a wonderful young student. With your help, she will reach her goal.

Sincerely,

[REDACTED]

[REDACTED]

Director of Choral Activities
Chico High School
901 Esplanade
Chico, CA 95926
(530) 891-3026, ext. [REDACTED]

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Exhibit C

[REDACTED]
I discussed this issue with Randy who indicated that material fees collected by a teacher for the sole purpose of purchasing those materials for the classroom can be placed in ASB and expensed from same.

We need to determine a way to make sure deposits and associated expenditures are kept very separate and only for the sole purpose of the account created. In other words no commingling of money's that are for other purposes than payment of "fees".

Scott

[REDACTED] <[REDACTED]@cusd.chico.k12.ca.us> 8/6/2004 2:14:07

PM >>>

Would it be acceptable for ASB to pay the conference fee of \$70?

Also, where do I stand on course fees for Art, I-tech, Science, Foods, etc?

I know, I'm putting the cart ahead of the horse, but I'm only relaying the

questions I am getting. If these "fees" are voluntary, and are used for

co-curricular materials, can ASB collect and teachers purchase with these

funds? do they need to go through District funds? Any clarification you

can give me????

Thanks.

[REDACTED]

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Exhibit D

Dear [REDACTED]

For the 2000-2001 school year I was the President of the Chico Junior High PTSA. It was my assumption that one of the roles of the PTSA would be fundraising and the dispersal of those funds, as is done by the PTA at the elementary level. To my surprise, I discovered that the Student Government, not the PTSA, was responsible for fundraising and disbursement decisions.

I knew that the major fundraising vehicle at the junior highs was the Magazine Drive, was aware of the net proceeds from the previous year at CJHS, and was curious how that money was spent. I asked to see the previous year's Income and Expense statement and was surprised by many of the line items, such as:

- "personal cash" to 8 teachers
- refrigerators from Ginno's for the teachers' classrooms
- cash in lieu of a bike to 2 teachers.

None of these allocations seemed appropriate to me and I shared my findings with the CJHS PTSA Board. The Board then designated a committee to investigate the matter further, and I headed that committee. The Committee reviewed CDE Publication No. 3, *Accounting Procedures for Student Organizations*. We prepared a list of questions and discussed our concerns with [REDACTED] (Principal), [REDACTED] (Student Activities Director), and [REDACTED] (accounting clerk).

I also contacted the Chico Unified School District office to discuss the use and suspected misuse of funds at Chico Junior. I spoke by phone to the District CFO, [REDACTED], and told him of our concerns. He told me he wasn't interested in hearing what was discovered at Chico Junior because it was a site issue, not the District's responsibility.

As a result of our investigation, the PTSA Committee wrote a report in January 2001 (a copy was recently forwarded to each of you by [REDACTED]). This report was submitted to [REDACTED] and was discussed with her, [REDACTED] and the PTSA Board. It was decided to discontinue the practice of "personal cash" to teachers. No further action was taken that school year. I do not know if any of our other recommendations were followed in subsequent years.

I am sharing this information with you because I feel the Superintendent and the CUSD are choosing to deal with the alleged findings at Marsh in a very unhealthy and destructive manner, whereas the District had absolutely no interest in the possible misuse of funds at Chico Junior three years ago. Any improprieties at Chico Junior were to be handled at the site, and at no time was anyone's job on the line.

Frankly, in my opinion the documented practices at Chico Junior were more grievous than the allegations brought against Jeff Sloan. Therefore, I believe that you should:

- (a) follow previous District practices and offer him the same opportunity to handle these issues at the school site, and
- (b) allow him to retain his position as Principal of Marsh Junior High.

Thank you for your time and careful consideration of this matter.

Sincerely,

[REDACTED]

2004-2005 BUTTE COUNTY GRAND JURY

Marsh Junior High School Follows the Money

Reason For Visit/Investigation

During the investigation with regard to complaints of Chico Unified School District (CUSD) charging tuition and material fees to attend classes, the Grand Jury heard many allegations of teachers and administration maintaining slush funds, Principals Account and pocket cash accounts generated by student fees and fundraisers. During the 2003/04 school year, a principal from Marsh Junior High School (MJHS) was removed as the principal of that school in part because of accusations that he had misappropriated or misspent student funds.

Background

When the Grand Jury began its investigation based on the complaint letters, we assigned a committee of five members to lead the investigation of the complaints. None of the members of the committee are parents of students at any public school. We had little awareness of the specific events that led to the reassignment of the former principal of MJHS. As we investigated the events that took place at MJHS during the 2003/04 school year we had serious questions about the complaint letters that we received. We questioned whether the complaint letters may have been retaliation against CUSD for what many members of the community believe was bad behavior by the school district's superintendent or if the awareness of parents had been raised regarding the legality of student fees as the result of the decisions of the CUSD superintendent.

We made a determination that the question of the motives of the complainants is troublesome, but not relevant. By the time we began our investigation of MJHS, we had been working with both CUSD high schools for months and had been provided sufficient legal background from counsel to be convinced that CUSD was not in compliance with either the California Education Code nor adopted CUSD Board policy with regard to charging legally allowed fees and the management of ASB money at the high schools. Questioning whether these schools were operating independently or as part of a CUSD unwritten policy, we approached legal counsel with questions of legally sustainable definitions of corruption or misuse of office. The response from legal counsel essentially stated that part of the legal standard for allegations such as that include "previous knowledge that the behavior is wrong" or "a pattern of behavior that shows deliberateness."

Investigation

In the 2003/04 school year, a series of very high profile incidents occurred when the CUSD administration accused the principal at MJHS of misappropriation of funds. The principal stated he believed that the Superintendent had accused him

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of baseless, manufactured charges. That his popularity, and the success of the schools, that he oversaw, during his long career with CUSD, were perceived as a threat to other schools in the district. Exhibit A contains a site administrator evaluation report stating, "Mr. Sloan is a extremely talented site administrator; all of you could learn from him in his areas of expertise. Mr. Sloan is commended for and encouraged to continue his efforts to work collaboratively with the new junior high school principals. Building positive and productive relationships with principals and schools will help in the goal of a positive educational experience for **all** students in the district. Mr. Sloan's efforts have resulted in Marsh Junior High School being an outstanding school; he is encouraged to continue to provide for Marsh Junior High School, but not at the expense of other school sites or district relationships."

This principal was reassigned to a lesser administrative position during the 2004/05 school year. In May of 2005, he received notice that he would be reassigned as a teacher of 4th grade at McManus Elementary School. The personnel issues surrounding the 2004 reassignment of the principal of MJHS are complicated and messy. The Grand Jury is writing this report with no closure on understanding why the CUSD Superintendent chose to handle the issue in the manner that he did. Members of the "at will" CUSD administration do not have union protections and can be terminated or reassigned for no stated reason. A reason as simple as that the Superintendent does not have confidence that the administrator represents the district in a manner that is reflective of his vision.

We do know that the former principal stated that it was his personal choice to disagree with the allegations of misappropriation of funds in public hearing before the CUSD school Board. It is our impression that what ensued was an all out war of egos and a total unwillingness of the people involved to back down. The aftermath of these battles will likely be scars in the community for years to come.

The Grand Jury was in motion and honed with understandings of Associated Student Body (**ASB**) funding mechanisms and rules when we stepped into this matter. The questions of misappropriation of funds and how the CUSD full audit results of the ASB funds at MJHS that were used as the basis of a disciplinary packet against the principal seemed highly relevant to us. The questions raised by the police incident referred to in the report, **Students Get What They Pay For**, of how the ASB could have lost over \$28,000 at two schools when the principal had presumably not been in a position of authority at a second school seemed intriguing. Furthermore, we understood that the money was missing this year, not last year.

The Matson and Isom warning, in the exhibit contained earlier, stated that unless internal controls are established, ASB money could be misused or misspent. Staff interviewed at MJHS report that ASB expenditures and money handling practices have not changed at all since last year. In an interview with investigators from Chico Police Department, we learned that it appeared that

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large amounts of checks and cash were missing. Staff report having over \$100,000 in the school safe for several weeks before a deposit was made.

The Grand Jury has no jurisdiction in investigating criminal matters unless specifically authorized by the District Attorney. With the evidence presented in our earlier reports suggests that schools were ignoring CUSD policies as a matter of habit with regards to making deposits. We learned that it is not uncommon for a school to go a full school year without reconciling the ASB accounts; the former principal of MJHS stated that the Marsh Comptroller told him that she had never provided the CUSD business office with a reconciliation report of ASB funds. The CUSD Chief Financial Officer (**CFO**) and the various assistant superintendents seem fond of telling us, and others that question them, that these types of issues are "site issues" and that they pay their administrators well to work hard to stay on top of these types of issues. The former principal of MJHS reported that he deliberately did not have access to the school safe, that he trusted his activities director, the school's comptroller, and others to stay on top of accounting and handling of the almost \$300,000 that pass through the ASB in a year at MJHS. In a May 27, 2004 email communication with the Director Classified Human Resources, the former principal asked for support in trying to improve the problems with the schools Comptroller in trying to make timely deposits. (See Exhibit B)

It is important to state that the ASB is one large bank account; designations of accounts for textbook damages, soda sales, etc. are used in the school comptroller's computer for internal tracking. At Chico High School (**CHS**), we learned that Choir had an account number and multiple sub-accounts for tracking income and expenses for events such as the Madrigal Dinner. The CUSD historically has not maintained a standard system of account codes between schools. It is our understanding that the CUSD business office has been working with the CHS comptroller to allow her some overtime to go to MJHS to standardize accounting practices with CHS and train several temporary/substitute comptrollers.

During the audit of the MJHS ASB account in 2003/04 that was used as part of the disciplinary packet, a great deal of attention was paid to what was called "Account 500: Principal's Account." The account was funded by other ASB sub-accounts, in the 2003/04 school year transfers were made in the amount of \$10,265 from account 510 (account for lost and damaged textbooks) to the "Principal's Account" with a note "to clear account." Other deposits included soda machine sales monies and reimbursements from Butte County for vandalism to the school. The types of expenses from the "Principal's Account" included floor mats, ink, airfare for the activities director, computer memory, ice cream and pizza for students, etc.

Exhibit C at the end of this report includes the 2003/04 ASB "full" audit of the MJHS performed by Gilbert Associates, Inc. We thoroughly and completely

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agreed with the results up to the point of the conclusions and would like to re-emphasize the statement that the ASB is one pot of money and that calling Account 500 the "Principal's Account" was a poor choice of words by the MJHS Comptroller. Logs recording student body approval for expenditures at MJHS were handwritten and difficult to read. The copies we reviewed included line items for what appeared to be each and every individual purchase. We were lead to believe that the student treasurer would approve each line and that the student government would approve the sheets as a whole, accepting that the expenses had been duly reviewed. In an interview with the CUSD Assistant Superintendent for Business Services, we discussed the ASB approval of funding for a new rubberized track at Pleasant Valley High School. He recalled his efforts of taking the proposal to the students and going through an approval procedure and recording a vote with pride, and described the procedure as, "the first time it has ever happened the right way."

The phrase listed in the conclusion of the audit report, "District funds were used for unauthorized purposes and should be considered a misuse of public funds" shows that the auditor believes that the ASB monies (which were generated at MJHS through the hard work and dedication of the students to their school and not by problematic classroom fees and textbook sales) are "public funds." This implies that ASB fundraising dollars are the property of the CUSD to be spent for their own purposes. When asked about transferring money to the CUSD classroom accounts, the former MJHS Principal looked appalled, and replied, "You can't do that!" We did not find any record in the financial statements we reviewed of any transfers of students' funds to the District office as we discovered at CHS. Instead the money appears to be spent for the enjoyment of the students, the beautification of the school, trainings and conferences for the activities director that were reportedly related to student body functions. There is no doubt that the bookkeeping was sloppy during this reporting period. We are convinced that the MJHS principal was full of passion to energize his students and increase his own popularity with them. It our impression that the CUSD accusation that the MJHS principal benefited personally from the ASB fundraising efforts was never established, unless having a lot of fun is a personal benefit. Neither district funds nor public funds were misspent and no audit performed by any CPA indicated that any money went off campus improperly until this school year, after the accused former principal had been reassigned.

We are unable to comprehend how the CUSD Superintendent or his deputies can have all of these separate "site issues" that are detailed in the 2004/05 Grand Jury report without alarm bells ringing; the Superintendent is ultimately responsible to answer for the schools in his district. In the spring of 2004, the Superintendent was working with the California Department of Education to establish a repayment plan for misspending over \$331,000 of categorical funding for the English Learners Program. The money was supposed to be used for materials for the program and the CUSD Superintendent testified to us under oath, " that the money was allowed to be used for labor costs only if the teachers

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had specific certifications.” He continued to state that teachers and their union fought the certification requirement “because of their own bigotry.” In March 2004 (see board agenda item #6.4 on 3/17/2004 and item #2.1(3) on 3/24/2004 special meeting) the repayment of three years worth of funding was announced to the CUSD School Board in what looked to us as a carefully cloaked item on the consent agenda. As we reviewed the history and chronology of both the actions against the principal of MJHS and what appears to have been an attempt to conceal the misuse of categorical funds by the district, the Grand Jury was startled by the overlap of the timing.

In the 2000/01 school year, a recently elected member of the CUSD School Board was then president of the Chico Junior High School (**CJHS**) Parent Teacher Student Association (**PTSA**) board. Exhibit D at the end of this report contains a communication forwarding all or part of a letter to “CUSD board of trustees” from the current school board member to the former principal of MJHS regarding an investigation of that PTSA into misuse of ASB funds at CJHS. She outlines irregularities in the ASB expenditures that include “personal cash to 8 teachers”, “refrigerators for classrooms”, “cash in lieu of a bike to 2 teachers.” She stated in her letter to the board that when she forwarded the report to the CUSD CFO and spoke by phone, “He told me he wasn’t interested in hearing what was discovered at Chico Junior because it was a site issue, not the District’s responsibility.” She goes on to express solidarity for the embattled principal of MJHS, and states that the charges against the principal are far less “grievous” than CJHS, and asks the CUSD School Board to “allow him to retain his position as Principal of Marsh Junior High.”

Exhibit E at the end of this report is a lengthy memo that we obtained through a subpoena of the former principal of MJHS, with that principal’s knowledge and consent. The memo is from the CUSD Assistant Superintendent from the Business Services Division to the CUSD Superintendent outlining the results of an internal review of MJHS ASB procedures; we agree with many of the findings in the memo especially those related to being reimbursed for expenses after purchases are made and before student government approval is made. From hearing testimony, we came to the conclusion that MJHS faculty and administration had no faith in the CUSD business office to pay for repairs for damage caused by vandalism. If any funds were recovered and deposited in CUSD accounts the monies would never be seen again. The notorious and widely publicized public hearings that described the “misappropriation of funds” surrounding the vandalism seem to have revolved around poor purchasing procedures by teachers impatient to restore their school to its splendor.

From the Grand Jury’s perspective, the memo (Exhibit D) illustrates an extremely clear understanding of the district’s business office of both California and “best practices” standards that are issued in California Department of Education (**CDE**) advisories. It is clear to us that that the district has known about misuse of ASB funds at many schools for many years and that they have an excellent grasp of

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the relevant laws that govern student body accounts. It is our conclusion that the now infamous phrase "site issue" is a euphemism for tacit approval of compensating for general fund deficiencies through the use of student-raised money. We surmise that the demotion of the former principal of Marsh Junior High School was cover for other misappropriations and likely punishment for his failure to transfer ASB funds to the district's accounts to "cover negative classroom balances."

Findings

1. CUSD district office/business office has an excellent understanding of California Education Codes, CUSD School Board Policies, and CDE Advisories with regards to proper procedures for managing ASB funds.
2. CUSD is not consistent in its implementation of the policies, procedures and advisories that it quotes in its disciplinary packet against the former Principal of MJHS.
3. The continued insistence by the district of ASB problems as "site issues" does not relieve CUSD of its responsibility for proper ASB management practices.
4. In the context of the number of "site issues", the CUSD policy designating the principal as the responsible individual for ASB practices conflicts with an objective of maintaining a uniform accounting system within CUSD.
5. The former Principal of MJHS does not appear to have personally benefited or "misused public" funds as stated in his disciplinary charge filed against him.
6. Purchases were for school year 2004/05 made and reimbursements requested prior to ASB approval process. Although we found these types of problems throughout all secondary schools we visited, it is clear that MJHS was not following correct practices.
7. Having a successful magazine drive or fundraiser can be an asset to any school. With proper controls in place, the student educational experience can be greatly enhanced by their own efforts.
8. During the peak times in fundraising, there is insufficient support available at school sites to insure timely deposits.

Recommendations

1. Since a great deal of media attention has been given to the former Principal at MJHS alleging misuse of public funds, CUSD should issue a

2004-2005 BUTTE COUNTY GRAND JURY

public statement clarifying the questioned practices occurred throughout all secondary schools or issue a public retraction of those allegations.

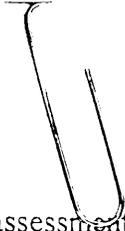
2. CUSD School Board should develop a work plan, which may require the use of consultants, to insure that all secondary schools are consistent in their implementation of CUSD policies, procedures and advisories.
3. CUSD Business Office should be responsible for oversight of all school Comptrollers and the standard implementation of account codes and practices throughout the district.
4. Fundraising money should only be used to supplement the classroom experience based on the wishes of the students.
5. With ASB approval, an annual open purchase order system could be implemented to specific programs/classrooms, which could be used for miscellaneous supplies to enhance the classroom experience. This would provide teachers needed flexibility and be a benefit to the students.
6. CUSD should implement controls recommended by Matson and Isom. During major fundraising drives, additional CUSD staff should be available to assist school sites and insure proper accounting and timely deposits.
7. Detailed descriptions should be included in every transaction to accurately describe the intended use.
8. Monthly reconciliation reports should be delivered to the district office as well as the CUSD School Board. Detailed ledgers should be available upon request.

Responses Required (Penal Code § 933 & 933.05)

Board of Education CUSD
Superintendent CUSD
Assistant Superintendent Business Services
Former Principal MJHS (school year 2003/04)

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Exhibit A



CHICO UNIFIED SCHOOL DISTRICT Site Administrator Evaluation Report

Based upon an assessment of the performance areas of general management and leadership skills and objective attainment, for the 2001-02 school year Jeff Sloan has:

- Not satisfactorily met the performance expectations of a site principal
- Satisfactorily met the performance expectations of a site principal
- Exceeded the performance expectations of a site principal

Supervisor Comments and Commendations: Mr. Sloan has a tremendous talent when it comes to running a school site. His school community is dedicated to both the school as a whole and Mr. Sloan as a principal. He sets high expectations for his school, staff and students alike, and then provides the support to allow the attainment of those expectations. Under the guidance of Mr. Sloan, Marsh Junior High School has become one of the premier junior high schools in the area. The school has few major discipline concerns and student test scores are among the highest in the district. The staff identifies goals and works together to achieve those goals; the staff at Marsh is by all accounts a team. Support for new staff members is provided not only by Mr. Sloan, but by veteran teachers as well. Further, Mr. Sloan has united the staff in putting "their best foot forward" whether the event is a parent night or a week of standardized testing.

Mr. Sloan is masterful at finding dollars to provide optimum educational opportunities, including advanced technology, equipment, instructional materials and field trips. Mr. Sloan is dedicated to his school and possesses an exceptional work ethic when it comes to doing whatever he can for his school; just one example is the exemplary job he has done in promoting the Marsh 6th grade program to the community. Mr. Sloan is an exceptionally talented communicator; I have yet to meet a principal more talented than Mr. Sloan when it comes to positive school public relations and school to home communication. Mr. Sloan also does an exceptional job of getting students involved in their school, whether it be in a sports program, a service learning project or school club. There is no doubt that Mr. Sloan has created a safe and positive school environment for the Marsh school community. In terms of sheer talent, Mr. Sloan has about as much as I have seen in a school site administrator.

Supervisor Recommendations: Two significant areas for growth have come to my attention over the course of the year. Mr. Sloan will need to set goals in the following areas for the upcoming year in order to address these issues. With the appropriate attention in these areas, the next evaluation would have tremendous potential to improve from "satisfactorily met the performance expectations" to "exceeded the performance standards".

1. Mr. Sloan, while fabulous at looking out for the needs of the staff and students at his school site, is encouraged to look at the full impact of his actions and make decisions that are in the best interest of all students and staff in the district, not just in the best interest of the Marsh school community. As an administrator for Chico Unified School District, Mr. Sloan's comments and actions need to be positive and productive for the district as a whole, not just his school site. In short, Mr. Sloan is encouraged to broaden his team building skills to include the district as a whole. Negative comments regarding other school sites, administrators, teachers, or the district office do not encourage positive relationships or collegial collaboration.

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Exhibit A, page 2

2. Mr. Sloan has an excellent instructional staff. An area for focus for all site administrators, including Mr. Sloan, is instructional leadership. Over the course of the next two years, Mr. Sloan is encouraged to become the instructional leader on his campus and work to ensure that all courses taught at Marsh Junior High School tie to the State adopted frameworks and that all courses are standards-based and standards assessed. The state has set the standards for our students; it is the site administrator's job to ensure they are taught and that all students progress towards these standards.

Summary: Mr. Sloan is an extremely talented site administrator; all of us could learn from him in his areas of expertise. Mr. Sloan is commended for and encouraged to continue his efforts to work collaboratively with the new junior high school principals. Building positive and productive relationships with principals and schools will help in the goal of a positive educational experience for **all** students in the district. Mr. Sloan's efforts have resulted in Marsh Junior High School being an outstanding school; he is encouraged to continue to provide for Marsh Junior High School, but not at the expense of other school sites or district relationships.

Supervisor's Signature: 

Date: July 8, 2002

The content of this evaluation report has been discussed with me. See attached page for comments.

Evaluatee's Signature: _____

Date: _____

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Exhibit B

From: "T. [REDACTED] [REDACTED]@groupwise.chicousd.org>
Subject: [REDACTED]
Date: May 27, 2004 4:11:05 PM PDT
[REDACTED]
1 Attachment, 0.1 KB

Jeff:

Your concern about the daily deposits being made by [REDACTED] is duly noted.
You do not need to concern yourself with the responsibility of writing a letter to her file.

[REDACTED] SPHR
Director Classified Human Resources
Chico Unified School District
1163 East Seventh St.
Chico, CA 95928-5999
(530)891-3000 x107
[REDACTED]@chicousd.org

>>> Jeff Sloan <[REDACTED]@sbcglobal.net> 5/27/2004 7:03:19 AM >>>

Tracy and Scott,

[REDACTED] has repeatedly failed to meet the deposit requirements that Scott [REDACTED], Randy [REDACTED], and I have discussed with her and written to her. I have written her three reminders in the last two weeks. Last night, she left once again without fulfilling what I directed her to do and what the requirement clearly mandates.

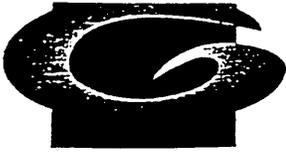
I am asking for your support. I can write a letter for her file, but ask for your support before I complete the process.

Jeff
Jeff Sloan
Principal, MJHS

↓

[REDACTED] (0.1 KB)

Exhibit C



Gilbert Associates, Inc.
CPAs and Advisors

March 12, 2004

Scott Brown, Ed.D. Superintendent
Chico Unified School District
1163 East Seventh Street
Chico, CA 95928-5999

Dear Dr. Brown,
Subject: Marsh Jr. High ASB

We have completed our initial site visit in conjunction with our engagement by the Chico Unified School District to conduct a systems review of secondary processes and procedures for Associated Student Body (ASB) with the goal of developing district wide procedures. Thomas M. Gilbert, in accordance with our Consultant Agreement dated October 30, 2003, performed the scope of this work. At the District's request we are providing you this preliminary summary of the results of our work.

GENERAL

On January 8, 2004 a visit was made to the district office and to the Marsh Jr. High site. The following individuals were interviewed: Randy Meeker, Assistant Superintendent-Business Services; Jeff Sloan, Principal, Marsh Jr. High; Lisa Reynolds, ASB Adviser, Marsh Jr. High; and Caryn Hightower, ½ time Account Technician, Marsh Jr. High. The documents reviewed included: Board ASB Policy #5340 and ASB Administrative Procedure (AP) #5340.1; Marsh site documents and records including purchase order requisition, cash advance request, money turn-in slip and current accounting records such as the bank reconciliation report, account reconciliation reports, activity transfers, and a 2002/2003 sequential list of checks.

OVERVIEW

The basic reason for raising and expending funds by the associated student body is to promote the general welfare, morale, and educational experience of the student body as a whole. The authority for the ASB comes from the California Education Code and additional requirements are set out in the California Administrative Code, and the Penal Code. The Board of Education has final authority over the establishment and operation of student body organizations. An "Organized" student body has an elected student government that conducts formal meetings. High School and most Jr. High ASB's meet this criterion. Elementary school ASB's are considered "Unorganized" as to student governance.

As set forth below, in this initial survey we found that at Marsh Jr. High: (1) There is a significant lack of internal control due to the failure to comply with District Policy and Procedures governing ASB funds; (2) Expenditures were made in all five categories of prohibited use as defined in District Policy, with personal benefit to the site Principal; (3) Unauthorized accounts under the direct control of the site Principal and/or Teachers, including one titled "Principal's Account"; and (4) Unauthorized deposit of District funds into ASB accounts and subsequent transfers to the Principal's Account. These findings include: violations of the basic reason for ASB operations; providing direct benefit to other than students; and misuse of public funds.

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Dr. Brown
Chico Unified School District
March 12, 2003
Page 2 of 3

Exhibit C, page 2

FINDINGS

1. Procedures Compliance

Finding: The following procedures as outlined in AP #5340.1 are either not done or not done on a consistent and documented basis: #1-Review of monthly bank statements; #2-Use of pre-numbered receipts; #3-Use of pre-numbered receipt books; #5-report all overages and shortages; #6-Managed in accordance with sound business practices; #7-Establish a billing system; #11-Deposits when receipts exceed \$500; and #14-Limit of \$100,000 per financial institution.

- The bank account reconciliations are usually only done annually in conjunction with the year-end closing and preparation for the annual audit. Lack of adequate staffing (1/2 time position) was evident.
- Cash receipts and deposits are not reconciled to the actual activity/attendance for such things as dances and fundraisers.
- At June 30, 2003, nine of sixty-six ASB accounts had negative balances.

Conclusion: Administrative Procedures are not being properly followed at this site and the lack of compliance is the direct responsibility of the Principal per AP #5340.1: "The school principal is directly responsible for all student body financial activities at the school site."

2. Prohibited Use of Funds

Finding: Numerous expenditures were noted in all five categories of prohibited use, primarily from the Principal's Account, supplies normally purchased by the district, repairs and maintenance of District owned equipment, supplies that are the responsibility of the District, articles for personal use of district employees, and the purchase of accommodations for District employees.

Conclusion: Actual expenditures as noted above are in direct violation of AP #5340.1: "Student body funds shall not be used for the following...."

3. Unauthorized Accounts

Findings:

- The ASB has accounts under the control of teachers referred to as "Department" and "Classroom" accounts. The department accounts (100's) collect fees for supplies directly from students. Although not mandatory (some are paid by the Butte Creek Foundation), they do not appear to be ASB funds used for co-curricular activities. This may be interpreted to be mandated fees which are not allowable. The classroom accounts receive 10% of the net proceeds from magazine sales. Teachers direct expenditures from these accounts for items that are not co-curricular activities and are for unauthorized ASB expenditures (e.g. equipment and supplies normally purchased by the District, repairs and maintenance of District owned equipment, supplies which are the responsibility of the District, accommodations for District employees or others, bottled water for staff, cable TV for classrooms, and going away gifts).

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Dr. Brown
Chico Unified School District
March 12, 2003
Page 3 of 3

Exhibit C, page 3

- At June 30, 2003 there was a Principal's account that had a balance of \$26,603. The Principal controls this account. Although the ASB Treasurer signs authorizations for expenditures, they do not go to the Student Council for approval.
- The Coca-Cola dealer maintains vending with monthly commission to the ASB. Commissions also are posted to the Principal's Account.

Conclusion: These accounts do not comply with AP #5340.1 in that they are using funds that are not for "... co-curricular activities beyond those provided by the district." And are not "... expended in a manner approved by the student governing board." The Principal's Account appears to be an example of abuse of his position and direct benefit to him.

4. Unauthorized Deposits

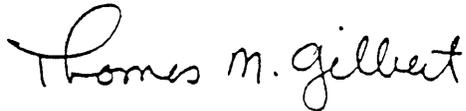
Finding: Sales of surplus/discarded books and lost book reimbursements go into an ASB account (#510 Lost/Damaged). Restitution funds are District funds that should be deposited in the General Fund since books are initially purchased with District funds. During 2002-2003, \$10,265.15 was transferred from this account to the Principal's account, which allows unauthorized expenditure of District funds. It was also noted that damage restitution funds payable to the district in the amount of \$2,150.00 during 2002-2003, were deposited directly into the principal's account.

Conclusion: District funds were used for unauthorized purposes and should be considered a misuse of public funds.

I am available to provide assistance with further site review at your request.

Sincerely yours,

GILBERT ASSOCIATES, INC.



Thomas M. Gilbert, CPA
Shareholder

TMG: id

cc: Randy Meeker, Assistant Superintendent-Business Services

2004-2005 BUTTE COUNTY GRAND JURY

Exhibit D

Dear [REDACTED]

For the 2000-2001 school year I was the President of the Chico Junior High PTSA. It was my assumption that one of the roles of the PTSA would be fundraising and the dispersal of those funds, as is done by the PTA at the elementary level. To my surprise, I discovered that the Student Government, not the PTSA, was responsible for fundraising and disbursement decisions.

I knew that the major fundraising vehicle at the junior highs was the Magazine Drive, was aware of the net proceeds from the previous year at CJHS, and was curious how that money was spent. I asked to see the previous year's Income and Expense statement and was surprised by many of the line items, such as:

- "personal cash" to 8 teachers
- refrigerators from Ginno's for the teachers' classrooms
- cash in lieu of a bike to 2 teachers.

None of these allocations seemed appropriate to me and I shared my findings with the CJHS PTSA Board. The Board then designated a committee to investigate the matter further, and I headed that committee. The Committee reviewed CDE Publication No. 3, *Accounting Procedures for Student Organizations*. We prepared a list of questions and discussed our concerns with [REDACTED] (Principal), [REDACTED] (Student Activities Director), and [REDACTED] (accounting clerk).

I also contacted the Chico Unified School District office to discuss the use and suspected misuse of funds at Chico Junior. I spoke by phone to the District CFO, Scott Jones, and told him of our concerns. He told me he wasn't interested in hearing what was discovered at Chico Junior because it was a site issue, not the District's responsibility.

As a result of our investigation, the PTSA Committee wrote a report in January 2001 (a copy was recently forwarded to each of you by [REDACTED]). This report was submitted to Mrs. McIntyre and was discussed with her, Mr. Chinchay and the PTSA Board. It was decided to discontinue the practice of "personal cash" to teachers. No further action was taken that school year. I do not know if any of our other recommendations were followed in subsequent years.

I am sharing this information with you because I feel the Superintendent and the CUSD are choosing to deal with the alleged findings at Marsh in a very unhealthy and destructive manner, whereas the District had absolutely no interest in the possible misuse of funds at Chico Junior three years ago. Any improprieties at Chico Junior were to be handled at the site, and at no time was anyone's job on the line.

Frankly, in my opinion the documented practices at Chico Junior were more grievous than the allegations brought against Jeff Sloan. Therefore, I believe that you should:

- (a) follow previous District practices and offer him the same opportunity to handle these issues at the school site, and
- (b) allow him to retain his position as Principal of Marsh Junior High.

Thank you for your time and careful consideration of this matter.

Sincerely,

[REDACTED]

2004-2005 BUTTE COUNTY GRAND JURY

Exhibit E

CHICO UNIFIED SCHOOL DISTRICT

1163 E. Seventh Street
Chico, CA 95928-5999

BUSINESS SERVICES DIVISION

(M E M O)

DATE: 02/11/04
TO: Dr. Scott Brown, Superintendent
FR: Randy Meeker, Assistant Superintendent
RE: Marsh ASB Audit



Scott,

Scott Jones and I conducted an internal audit of accounting activity for the Marsh ASB records on January 30, 2004. We primarily focused on the 2002/03 fiscal years, but reviewed specific activity in every year the Marsh ASB has been active. During this review we found many purchases, receipts and fund transfers, which are inappropriate, per the California State Department of Education's "Accounting Procedures for Student Organizations", Board Policy 5340, AR 5340.1 and Education Code. We worked very closely with Caryn Hightower, ASB Controller, a four-hour position at Marsh

The Marsh ASB chart of accounts is made up of 81 separate pots of money within one single cash account. Of these, the Student Council controls and votes on five accounts, 400-450 which include 2002/03 General Students, Graduation Fees, Magazine Account, Gym Spirit and Student Store. The Principal controls five accounts, 465-520, which include Student Body Cards, Principals Account, Lost/Damaged Text Books, Staff Fund and Vandalism. Caryn, the Controller controls four accounts 915-965, which include Bank Charges, Event Holding, Suspense and Money Market Interest. The staff controls the remaining accounts, which include two types. 1) Club Advisors control 23 accounts 200-290 and 2) Individual staff members control 43 accounts, 100-190 and 300-384.

Education Code 48932 states, "The governing board of any school district may authorize any organization composed "entirely" of pupils attending the schools of the district to maintain such activities, including fund-raising, as may be approved by the governing board".

In assuming the authority given by the education Code, a school district governing board must adopt regulations that govern (1) the establishment of a student body organization; (2) the supervision of the organization's activities; and (3) the operation and management of the organization's finances. Chico Unified School District's Board of Trustees approved Board Policy 5340 to create the structure for the establishment and operation of ASB organizations in the district. The Administration developed AR 5340.1 to provide specific operational guidelines on how ASB organizations would be operated. Marsh Audit of ASB funds:

2004-2005 BUTTE COUNTY GRAND JURY

Education Code 48930 states, "Any group of students may organize a student body association within the public schools with the approval and subject to the control and regulation of the governing board of the school district. Any such organization shall have as its purpose the conduct of activities on behalf of the students approved by the school authorities and not in conflict with the authority and responsibility of the public school officials".

The 2002/03 fiscal year ASB cash balance began the year with \$74,566. This represents the total cash in all 81 pots of money. During the year, \$276,365 was deposited, \$249,080 was disbursed and all 81 pots of money ended with a combined total of \$101,851. As percentages, the accounts had the following activity:

	Beginning	Receipts	Disbursement	Transfer	Ending
General ASB	42.04%	56.87%	50.70%	(35.30%)	38.11%
ASB Controller	1.80%	2.30%	1.80%	(9.39%)	(2.97%)
Principal Accounts	22.96%	9.20%	6.74%	2.97%	27.23%
ASB-Clubs	11.05%	21.10%	21.39%	11.89%	20.76%
Advisor Controlled	7.07%	.10%	5.65%	23.18%	6.71%
Staff-Classroom	15.07%	10.44%	13.71%	6.65%	10.16%

Administrative Regulation AR 5340.1, Establishment of a Student Body Organization; No. 1 states, "Student body funds must be used to promote and finance a program of worthwhile co-curricular activities beyond those provided by the District". No. 8 states, "The school principals, through the authority delegated to them, are responsible for the proper conduct of the financial activities of the student body". No 9 states, "Principals and their delegate must participate in the preparation, modification and interpretation of procedures and regulations affecting student body affairs".

Administrative Regulation AR 5340.1, Administration of the Activities of the Student Body, states, "The Student Body accounts are to be made in accordance with the established system that encompasses elements of internal control and good accounting practices. The accounting system for student body organizations shall follow the prescribed methods outlined in the manual, Accounting Procedures for Student Organizations, School Business Administration, published by the California Department of Education". It goes on to state, "According to the constitution of the student body, the student council is responsible for the adoption of a budget, approval of expenditures and the authorization of fund-raising activities as approved by the principal/designee".

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Marsh Audit of ASB funds: **Exhibit E, page 3**
Page 3 of 7

The School Business Administration, Publication No 3, published by the California State Department of Education writes under Profits from General Activities; A good fiscal policy states that profits made by activities, which are supported by the general student body, must be considered general student activity revenue and may not later be diverted to the accounts of special groups. The CUSD AR 5340.1 does not definitely prohibit the diversion of receipts from a general student body fund-raiser to a special group. However, the fund raising request form, which is presented to the Board for approval specifically states, "the funds will be deposited in the Associated Student Body Account".

Publication No 3 also writes under Purchase of Merchandise; requisitions must be submitted for prior approval of purchases of merchandise or services. Purchase orders must be issued for purchases approved by the student council. Thus, a student body is not obligated to pay for an expenditure ordered by a teacher, student or other person who has not first received a written purchase order from the person responsible".

Publication No. 3 goes on to state under Prohibited Expenditures; In addition to Ed Code Section 48934, which deals with the use of student body organization funds, it should be noted that certain expenditures are prohibited, namely:

- 1) Equipment, supplies, forms, and postage for curricular or classroom use or for district business.
- 2) Repairs and maintenance of district-owned equipment.
- 3) Salaries or supplies which are the responsibility of the district.
- 4) Articles for personal use of district employees.
- 5) Gifts, loans, credit, or the purchase of accommodations for district employees or others.

Publication No. 3 specifically writes under the Management of a Student Body Organizations Income, "Vending machine operations are an integral part of the operation of the student body organization and must comply with Education Code Section 28931. Contracts for vending machine operations must be governed by a contract between the vendor and the student body organization, subject to the approval of the District Administration. Therefore, lacking any District approval to the contrary, vending agreement proceeds are to be under the control of the Associated Student Body.

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Marsh Audit of ASB funds: **Exhibit E, page 4**
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Findings: Given the various sections of Ed Code, Board Policy, Administrative Regulations and the CDE manual on Accounting for Student Body Organizations, we have found specific irregularities in the Marsh ASB accounts. At the end of the 02/03 fiscal year, we found 44.10% of the actual cash residing in the ASB accounts, not authorized; we discovered diversion of funds from ASB accounts to a "Principals" account; vending machine receipts being deposited in a "Principals" account rather than a Coke Commissions account under student control; the majority of purchases being made at-will by staff and at a later date having PO's written and then reimbursed; equipment, books and classroom supplies being purchased out of the ASB accounts; restitution payments for damaged district facilities and equipment being deposited in various Marsh ASB accounts, but primarily in the "Principals" account and staff funds used for staff parties residing in the ASB accounts, while using a district employee to collect, account for and disburse these personal funds.

- 1) As June 30, 2003, 44.10% of the cash balances within the Marsh ASB funds were in accounts controlled by either the Principal or staff and are unauthorized by the CUSD Board and the Ed. Code. The activities for these accounts during the 2002/03 fiscal year were as follows:

	Beginning	Receipts	Disbursements	Transfers	Ending
Principal	22.96%	9.20%	6.74%	2.97%	27.23%
Staff-personal	7.07%	.10%	5.65%	23.18%	6.71%
Staff-Classroom	15.07%	10.44%	13.71%	6.65%	10.16%
Total	<u>45.10%</u>				<u>44.10%</u>

- 2) The deposit of money into the ASB General Fund, which is collected from individual site staff members for the sole use of buying flowers, going away gifts, cards, cakes and putting on staff parties is not authorized by Board Policy or Ed Code. The use of District paid staff to collect, deposit, disburse and account for personal funds of staff is an unauthorized use of public funds.
- 3) Scott and I found purchases to be made primarily by staff, both for ASB accounts as well as staff controlled accounts. At a later date, the store receipts are turned into the ASB Controller, a purchase requisition is filled out at that time and then the three signatures required by Ed. Code for ASB expenditures are collected. There exist a serious lack of control over purchasing for ASB accounts, as the majority of purchases occur prior to authorization. The general ASB student council or the club representative should approve purchase orders prior to a purchase being made. Purchase orders should be numbered in sequential order.

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Exhibit E, page 5

Marsh Audit of ASB funds:
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4) Per AR 5340.1, Major fundraisers are to be authorized by the Board. Marsh JHS submitted a major fundraiser request to the Board on August 6, 2003 for a magazine drive. The requisition indicated gross sales of \$150,000 and a net profit of \$75,000. The major fundraiser form indicates, "Funds generated from the project/activities shall be deposited in the Associated Student Body Account". Hand written, Lisa Reynolds and Jeff Sloan indicate this fundraiser is for the "Associated Student Body" and was to fund student activities/programs.

went into the right acct

a. In 2002/2003, the magazine drive account #425, began the year with \$24,622, \$137,077 was generated in gross receipts after cash prizes of \$2,620, the account had disbursements totaling \$86,737 and ended with a balance of \$33,197. Of the balance disbursed, prizes consisted of \$3,414, pizza parties and cookies accounted for \$1,427, lunches out, gift certificates to Sierra Nevada and gifts to parents accounted for \$700, payments to the magazine vendor accounted for \$69,128, the Gym floor logo accounted for \$9,200 and the Marine world trip accounted for \$2,643. The magazine drive netted \$60,488 after prizes and parties. Transfers out of the magazine account amounted to \$41,766 with the Associated Student Body receiving a transfer of \$24,622 and individual staff accounts receiving \$17,144.

b. According to the CDE manual, "a good fiscal policy states that profits made by activities, which are supported by the general student body, must be considered general student activity revenue and may not later be diverted to the accounts of special groups".

policy suggested not a rule

c. According to the California State Constitution Article 16, Section 6 "The Legislature shall have no power to make any gift or authorize the making of any gift, or any public money or thing of value to any individual, municipal or other corporation whatever." Therefore, funds of the District, which include ASB funds shall not be used to provide gifts to any employee, student, other person..." Such items which are considered to be gifts include:

Not in quotes

- i. Flowers
- ii. Personal Items
- iii. Cash
- iv. Gift certificates
- v. Shirts, etc.

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Exhibit E, page 6

Marsh Audit of ASB funds:
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5) Account #465 is the Student Body Card account. Students purchase ASB student body cards at the beginning of each year and in 02/03, the students were charged \$7.00 for each card. Life Touch provided each card including the student's picture "free" of charge. The ASB cards provide discounts to numerous events and photo identification for students. The Student Body cards account #465 began 2002/03 with a balance of \$4,687. Student fees totaling \$3,102 were posted to the account on 9/05/02 and 9/10/02. On 9/12/02 donations from All Wood Furniture and Target were made for a total of \$289.53. On 9/06/02, the Principal bought lunch for PTSO helpers at Applebee's. On 10/07/02, the Principal bought lunch for the top student luncheon for \$27. On 10/22/02, \$7,910 was diverted into the Principals account #500.

6) The Lost/Damaged Textbook account #510 began the 02/03 fiscal years with \$10,238. This balance was generated from charging parents the cost of lost or damaged math, science and history books and in addition for broken calculators, beakers and math fines. This balance was generated over the period from 12/1/99 to 6/30/02. Student fees were collected on 9/05/02 for \$78.50 and on 10/22/02 \$10,265 was diverted from account #510 to the Principals #500 account. Textbooks and Library books are paid for from restricted State funds. Any reimbursement from students/parents for lost or damaged books is the property of the CUSD and or the State.

Should have been returned & destroyed

Coke should have a different acct.

Marsh has an agreement with Coke for the vending machines on campus. There is no ASB account for Coke commissions. Coke commissions are deposited into the "Principals" account #500. During the 02/03 fiscal years, commissions amounted to \$10,738, which included a \$1,800 base amount. It is not unusual that a site would develop an agreement with a soda vendor with the funds being used for specific purposes. However, Coke proceeds should be placed in one or two separate identifiable accounts to be used for specific purposes under the control of the ASB.

8) When a site is vandalized, there is a District form the site Administrator fills out, which includes a list of the items damaged or stolen, the number of the police report and any accompanying PO's to repurchase assets lost. The District maintains a theft/vandalism budget for the purpose of reimbursing sites for items lost or damaged. On 8/21/2000, Jeff Sloan submitted a claim for \$7,093.53. The district reimbursed the site \$1,590.39 through PO's buying new equipment and \$1,554.11 through maintenance work orders. A pay phone was listed on the damaged list at \$2,000. We found where a \$600 payment was made to Mountain Communications. The district reimbursed the site for \$3,144.50.

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Marsh Audit of ASB funds:
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Exhibit E, page 7

*Restitution
paid to
Marsh
checked back to
District*

a. In the aftermath of this vandalism, two boys were caught and convicted in Butte County. They were ordered to pay restitution by the court. Each boy had to pay \$3,171 for a total of \$6,343. The checks were made out to Marsh Junior High School. As happens with some restitution checks, the checks are sent to the site. In all other cases where checks have been sent to the site, the checks have been redirected to the District office for deposit in a district account. In this case, both the Salazar and Steven's restitution checks were sent to Marsh directly. As Marsh received these checks, the site Administrator had them deposited in various accounts, but primarily in the "Principals" account #500 rather than forwarding them onto the District. During the 02/03 year, \$2,150 was deposited in the Principals account. Year to date in 2003/04, \$1,221.77 was also deposited in the Principal's account. As of 2/02/04, Butte County indicates both boys have paid 100% of their restitution payments.

9) In addition to the above items, we found instances where \$583 was spent on a washer and dryer, \$2,533 was sent to the District to cover an overage in the Marsh Site budget, \$150 was spent on a salad bar PTSO lunch, \$1,447 was spent on furniture from Austin's for the staff lounge, \$162 was spent on toner cartridges for copiers, \$278 for a computer screen for a staff member when the ASB turned down the request, \$302 was spent on two stereos for classrooms, funds were spent on bottled water for staff and students, \$105 was spent on facility request forms, and \$3,129 was spent on new furniture in the gym.

Under the supervision of the Marsh Principal, the ASB accounts, which were authorized by the CUSD School Board entirely for the co-curricular benefit of students, have become an unauthorized source of funding for the Principal and staff. This practice has personally benefited the Principal of Marsh and disadvantaged Junior High students and staff from BJHS and CJHS. The fact that ASB funds were used to purchase classroom supplies, equipment and furniture created a learning environment advantage for Marsh students over other junior high students in the district.

*Rest-
ment*

Spending ASB funds on classroom supplies and district equipment may seem like a worthy cause, however Ed Code section 48934 deals specifically with prohibited expenditures by an ASB. Among these prohibited expenditures are equipment, supplies, forms and postage for curricular or classroom use or for district business and repairs and maintenance of district-owned equipment and gifts. What we have discovered at Marsh is a perfect example of why the Legislature prohibited the use of student body funds for curricular and classroom activities.

In the operation of the Marsh Associated Student Body financial activities, the Principal has shown a blatant disregard for Ed. Code, Board Policy, Administrative Regulations and CDE's Accounting for Student Organizations. AR 5340.1 places the responsibility of the financial activities of an ASB directly on the shoulders of the Principal.

2004-2005 BUTTE COUNTY GRAND JURY

Biggs Report

Reason for Investigation

The 2003/04 Grand Jury investigated the Biggs Unified School District and made recommendations. Early in this term the 2004/05 Grand Jury received a complaint alleging morale problems within the district and possible inappropriate behavior by the administration. Since there had been no response to last year's Grand Jury recommendations by the district as required by law, and because the allegations in the new complaint were alarming, this Grand Jury made the determination that another look into the district and its practices was warranted. In the interest of the public trust, this jury wanted to determine the validity of employee complaints of discrimination and harassment. One member of the Grand Jury recused himself.

Background

This Grand Jury investigated the validity of claims that the Biggs Unified School District (BUSD) has been under performing and has lost its integrity. At one time it was a celebrated small rural district that turned out high quality educational experiences for its students. Anecdotal evidence suggests there was high morale among its faculty and cooperation existed between the schools and the community in years past. The pride once known in the Biggs schools is not as apparent today. The recent improvement in the Academic Performance Indicator (API) scores over the last few years has been touted as a new source of pride for the teachers and the administration. However, members of the California Teachers Association (CTA) report the State of California is looking into questionable reporting and recording of the BUSD API test scores. Evidence presented here will indicate the school district's current state of decline. The district has struggled with instability of its administrators, financial solvency, a problematic school board, gang violence, student discipline, and alienated parents. Preliminary examples of this loss of integrity include at least thirteen principals in the last fifteen years at the high school alone, publicly reported fiscal insolvency, and a violent incident at this year's homecoming football game. Moreover, based on a recent staff satisfaction survey, there is a disconnect between student/faculty needs and the administration's willingness or ability to meet those needs. This survey indicates blatant and severe morale problems as well as a complete lack of faith in the administration and school board. To complicate this scenario, this district has experienced a "brain drain" that can be attributed to the aforementioned factors, early retirements, poor morale, and an administration, which chooses non-reelection of qualified new teachers. Additionally, long-term faculty has been departing because of unresolved problems in the educational and workplace environments. The working conditions are reported to be contentious, hostile, and challenging the bounds of decency. Not surprisingly, public records reflect that BUSD has been on the

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losing end of civil actions brought by employees for violations of labor law and collective bargaining agreements that have proven costly to both the reputation and financial condition of the district.

Investigation

The Grand Jury initiated interviews with both classified and certificated personnel from all three schools within Biggs but did not look at the Richvale elementary school. We studied the district policy and procedure manuals, employee satisfaction surveys, collective bargaining agreements, and selected employee personnel records. We also conducted interviews with the Butte County District Attorney, Gridley Police Department investigators, Biggs school board trustees, the California Teachers Association union representatives, students, and some parents.

Our initial investigation opened on the allegation of misconduct by the principal of the high school over nude photographs of two Biggs High School (BHS) students and allegations that he conducted his investigation of the photos in an inappropriate manner. In short, the photographs had been taken at the high school locker room and posted on the Internet, all of which came to light more than a year later. The photographer was identified as a male BHS student who subsequently admitted what he had done. The female students in the photo were identified and all parties were reprimanded and disciplined with suspensions.

The photos resurfaced again when the BHS principal inexplicably showed them to several certificated staff many months after the investigation had been completed and discipline had already been meted out to the responsible parties. Additional investigation revealed that the photos did not meet the criminal test for child pornography in the eyes of the local police chief and District Attorney. The whole incident would have been dismissed by the Grand Jury if not for the subsequent events surrounding the principal's investigation, our investigation, and the reports of retribution and harassment against employees associated with the "whistle blowing."

Cogent information was hard to identify given that the administration testified that their actions were reasonable, prudent, and within the bounds of policy, decency, and the law. They asserted that the complainants were rebellious teachers who were trying to manipulate the facts to effect the removal of the administration, because they were contentious and unaccustomed to strict new policies and practices enacted by that administration. Faculty counter-claimed that the administration was behaving in manners inconsistent with, and in violation of, their Collective Bargaining Agreement (CBA), the district policy and procedures, as well as outside the bounds of decency and of civil employment laws. Separating fact from fiction was very difficult in this case.

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First level investigations gave this jury the impression of having stepped into a messy labor dispute. Testimony we received came from witnesses including the BHS principal, (who was dating the mother of one of the unclad females in the photo) concurrently he was in possession of a sexually explicit photo of an adult female. Questions arose as to how the principal had come into possession of that photo and why it was displayed to other staff along with the photos of the BHS female students.

What started out as a simple investigation of allegations that photographs were inappropriately displayed turned into a long list of grievances and allegations. The list of grievances against the principal with concurrent allegations of complicity with the superintendent grew with each witness interviewed. Allegations of discrimination and harassment of protected employee classes stem from detailed testimony and the written records given by certificated staff. Additional allegations against the principal include improper conduct toward female students, targeting older, more expensive teachers for dismissal, inappropriate or absent discipline of students, and coercing/bullying students and staff to file false reports against teachers. Further allegations include intimidation tactics, improper teacher discipline, poor judgment in the hiring and retention of new teachers, retribution against anyone who crosses him, and parental complaints dismissed without investigation. Staff also accuses the administration of duplicity and tyranny in its enforcement of policies. Staff revealed feelings of fear of their job security as being dependent on remaining silent over important issues such as perceived administrative misconduct. While not explicitly alleged by witnesses, this jury became aware that an additional set of allegations should be inferred, including irresponsible use of district funds stemming from improper use of administrative leave imposed on teachers, and imprudent personnel management practices.

When taken in context of the totality of further testimony the resultant aftermath of turnover, stress disability claims, teacher suspensions, decline in student enrollment, fiscal insolvency of the district, and student and teacher disciplinary actions, these allegations formulated a significant picture of unaddressed morale issues caused in large part by what appears to be mismanagement by the principal, superintendent, and a tolerant or indifferent school board.

Testimony stated that the BHS principal was displaying all of the photos in a recreational, prurient, and unsolicited manner as though he was trying to illicit a reaction out of those who viewed them, rather than as an investigator seeking facts on how they came to be or how a similar incident might be prevented in the future. He made no effort to cover the breasts of the female students in the photo with tape or black marker while he was purportedly investigating the location long after the incident. He did not forewarn staff prior to displaying the photos, nor did he get consent from any of them prior to showing them. Several BHS staff, male and female, testified that he showed the pictures to them, and they could not understand his motive for doing so and were offended by the presentation of the

2004-2005 BUTTE COUNTY GRAND JURY

photos. By his own admission, as a mandated reporter, the principal did not fill out a report of suspected abuse, neglect, mistreatment, exploitation of a minor with the social services department as required by law when the photos first came to light. His testimony reveals that he believed that his inquiry with the police department as to technical aspects of the photos as they pertained to pornography was sufficient for reporting.

To make this matter appear more questionable, the superintendent responded to the complaint from the teachers after an investigation on his own. According to testimony, and his own written records, he asked each of the complaining teachers if they had seen the photos. That was the beginning and end of his investigation. He concluded that the situation had been examined and that no wrongdoing was substantiated through evidence. He dismissed the issue in the interest of confidentiality. Furthermore, he indicated in a widely distributed e-mail, that the principal had fulfilled his contractual obligations and implied that the district no longer employed him. The school board members interviewed indicated tacit knowledge of the incident and refused to give any details. The same principal returned to work at the beginning of the 2004/05-school year.

These certificated staff reported that they became immediate "targets" for having reported the principal to his superintendent, the Biggs Unified Teachers Association, the California Teachers Association, and the Grand Jury. This targeting was evident upon our first contact with the principal when he openly admitted that it would be "great if the state of California would come in and take over the district so that the teachers' contracts could be nullified," their tenures would be invalidated, and terminations by the administration could occur easily for the high priced "old" teachers who were resisting the changes in policy. The principal has openly admitted in his testimony that for every one of the "old" teachers he can terminate he can hire two new ones.

This principal has on numerous occasions stated that he has "A Team" players and "B Team" players. "B Team" players are on his well-known "Hit List." Rhetoric of this nature is used openly, loosely, and often in interpersonal communications amongst the principal, parents, and his staff. Staff members that are on his "lists" have found themselves being singled out, repeatedly and unjustifiably reprimanded, and appear to be discriminated against through the unequal enforcement of policy. Written reprimands initiated by this principal fill their personnel files for seemingly trivial and/or contrived infractions. Those reprimands can be used as the paper trail necessary for legal terminations. This is happening to both teachers who have had spotless careers up to that point as well as to teachers who have had actions taken against them in the past. Enforceable policy is defined in the aged and unrevised Policy and Procedures manual for the district and in the current Collective Bargaining Agreement. It is evident from testimony that there is an additional set of policies that are the

2004-2005 BUTTE COUNTY GRAND JURY

undocumented policies of the principal which amount to his loose interpretation of actual policy in the CBA.

The principals' number one policy used as means of singling out someone is the one he describes as the "adjunct duties" of faculty. Adjunct duties are construed by him to mean any and all extracurricular duties he wants covered by teachers. These items are not part of the usual and customary extracurricular activities outlined in the CBA or the district policy manual. The teachers have an agreed upon list of extracurricular duties for which they volunteer at the beginning of the school year based on seniority, interests, and preference. It is a system which has worked for a long time without administrative interference. The principal seems to expect all his teachers to attend all athletic events as an adjunct duty. He also has special projects, which fall outside the CBA, and sometimes he does not get the desired participation from the faculty and uses it against them later. He uses their refusal to comply as an excuse to label them as "B Team" players, unmotivated and apathetic.

His policies about adjunct duties are not in writing, ill defined, confusing, and outside of contractual agreements. All faculty witnesses described confusion over "adjunct duties" in the context of "whatever that means." A long-term, highly respected Biggs High School teacher, who is an active community and church leader, was recognized for his contributions in a local newspaper article last year. When this teacher refused to participate in one of the principal's adjunct duties, the principal went so far as to cite that article and accuse him of having enough time for his church activities but not being willing to put the same effort into his school.

A number of teachers have testified that the working environment is "hellish" and that the predominant feeling on campus is fear. Teachers report that the tactics used by the principal are intimidating. He reportedly uses stare downs, scowls, leering, the silent treatment, subversion, isolation of his victims, indiscriminant discussion of confidential personnel matters, and peering through classroom windows as his tools of manipulation.

It appears that acts of retribution in the forms of continued written reprimands, notices of termination, and continued targeting of select teachers have escalated since closing out this investigation. Since our departure, we have received additional reports that this environment has become worse.

The principal has a role in the discipline of students on campus. When referrals are made for discipline, the student will show up in his office for action. It is reported that if the referral comes in from one of the teachers on his "hit list", he requests that the student make a negative written statement about that teacher for reasons which can only be surmised. Given that we found some evidence of student statements and were unable to disprove this claim, if truthful, these

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actions provide students with an opportunity to get back at the teacher who corrected them on their poor behavior.

At the end of last school year there was international headline news about the American contractor who was beheaded by the Iraqis. There was a graphic depiction of the incident in a news clip available on the Internet, which one of the students had found and managed to bring up on his classroom computer. The teacher in the room that day was on the principal's hit list. When the student ran the clip in the classroom, however briefly, to a limited audience, the consequence to the teacher was immediate and severe. The principal placed the teacher on administrative leave pending the results of an investigation. He was on administrative leave for the remainder of the school year up to the day of final exams. No written investigation was ever placed in his personnel file. A substitute teacher had to be hired for those missed school days. The teacher was reprimanded in writing for failing to provide lesson plans in his absence as well as for his allowing the clip to be shown in class. The student involved in the incident was brought into the office in isolation to make a written statement that was coached by the principal. He reported that he was intimidated into implicating the teacher when the teacher had very little understanding of what was about to be shown.

According to testimony some students have chosen to recant what they have written, and have gone back to withdraw their statements. Initial requests for return of the paperwork have gone without response from both the principal and the superintendent. Parents have written letters, approached school board members, and have gone so far as to have letters drawn by their attorneys to get the written statements removed from the record. At least one child became physically ill over the statement he was coerced to make against a teacher. He and his parents had to engage an attorney to get the letter retracted and replaced with an accurate amendment. Students are routinely asked to write "love letters" to the principal as an essay assignment for "punishment." Students are rarely offered an opportunity to have parental involvement when they are making allegations against the faculty. According to faculty, it is commonplace for the word of the students to be taken over the word of the faculty when determining the truthfulness of issues.

One teacher has gone out on verifiable stress leave because of the severity of the negative environment. Long term teachers with stellar work histories and long standing community involvement have testified that they can hardly stand to get out of bed to face another workday at the high school because the administration has made the environment so hostile. A number of years ago the district paid for a consultant to prepare a plan and a report on how to improve the morale how better to retain teachers, as well as how to best maximize productivity and faculty involvement. We were unable to ascertain the costs associated with that report. Through testimony of the BHS principal, and given the current results of

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deplorable morale, retention, and productivity at BHS and Biggs Junior High School; those recommendations were never implemented.

While this grand jury did not specifically investigate the current BUSD budget, or projected deficits anticipated in the near future, a Chico newspaper reported on the matter during our term. As long as those facts were correctly reported, this jury is compelled to assign accountability where it belongs, at the administrative and governing levels of the BUSD.

Complaints made to the California Commission on Teaching Credentialing (**CCTC**) regarding some of the high school principal's behavior, as reported herein have not gone unanswered. On April 29, 2005, the CCTC recommended for a public reproof. A public reproof is a public warning from the CCTC that the conduct is not appropriate for a credential holder. (See Exhibit A)

Findings

1. Each of the alleged incidents or patterns of behavior was seriously considered and evaluated. Investigations of this type are difficult because much of what is reported are feelings and personal perceptions. However, given our available expertise, resources, and time constraints, the weight of the evidence substantiates and validates what follows. While there may have been attempts to manipulate the Grand Jury, we are confident that our investigation fleshed out those instances. There appears to be cause for real concern over the conduct of business in this district.
2. BUSD administration failed to respond to the Grand Jury's 2003 report as required by law in a timely manner; and as specifically requested on a number of occasions by County Counsel and the Presiding Judge of the Butte County Superior Court. This failure reveals attitudes and competence levels that help substantiate employee complaints.
3. Much of the turmoil in the high school is a result of the principal's use of intimidation and fear to achieve his desired results. He persistently attempts to force employees to adhere to policies that are not in writing and makes biased evaluations based upon those policies.
4. The principal mismanages employee needs, student discipline, and citizen complaints. His authority has created an environment that leaves the district vulnerable to legal action.
5. On April 29, 2005, the CCTC recommended a public reproof.

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6. Not only did the principal exhibit photographs displaying partially nude female students, he also displayed a sexually explicit photograph of a completely nude female adult. Numerous witnesses testified to this conduct.
7. Employee morale at the high school and middle school is very low as revealed by interviews, poor teacher retention, legal actions, and a separate job satisfaction survey. District records show a turnover rate far above acceptable levels. Ironically, for all its efforts to force out old expensive teaching staff, non-reelection of new teachers is unusually high. Another lesser cause of the morale problem was revealed in that there is a systematic failure to include teachers in the decision-making process.
8. As mandated reporters, the administrators did not file complaints with the local Child Protective Services as required by the Welfare and Institutions Code on one and perhaps a second occasion. One instance is described above and the other surfaced as the Grand Jury looked into the personnel record of a teacher. It was unclear whether the BHS principal had fabricated a reprimand of that teacher or failed to report.
9. Indifference, ineptitude, or apathy on the part of the superintendent and trustees of the school board have led to the current condition of education in Biggs. Their lack of leadership perpetuates a very dysfunctional system. We conclude that they have a mistaken belief that the high school principal is moving in the right direction.
10. As witnesses, BUSD Trustees failed to cooperate with our investigation through evasion, claimed ignorance, or through outright refusal to attend scheduled interviews without a subpoena. They hid behind what appeared to be a coached claim that they were unable to cooperate based on confidentiality. It was evident that they were either trying to protect someone, had serious deficiencies to hide, or were truly uninformed about critical district matters.
11. Some personnel legal actions over recent years have resulted in additional damage to the reputation of the district. Moreover, there was at least one legal action which was lost by the district and for which it has yet to make restitution to the injured party. It is apparent that this district continues to allow management to behave outside the norms of acceptable employment practices and to push legal boundaries. It has apparently not learned lessons from its prior mistakes.
12. Testimony reveals that, based on excessive targeting of older, more costly teachers, interference with union activities, display of sexually explicit photographs, and frequent poorly justified disciplinary actions taken against

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"Hit List" teachers, recent conduct by the district administration has opened the district to additional legal claims.

13. Current teachers demonstrate daily courage by showing up to serve the needs of their students and are doing an adequate job despite the hostile environment. This jury believes that teachers are the core of the educational process and that teachers who have long term experience are a valuable commodity that ought not be abused or squandered.
14. The trustees of the school board apparently do not have a mechanism to effectively monitor grievances and complaints against the district.
15. The principal of the elementary school and her administration were not found to participate in or follow or be affected by the high/middle administration.
16. Based on the results created by this administration, is reasonable to conclude that they have exactly the educational environment they intended.

Recommendations

1. The Biggs Unified School District Board of Trustees must immediately enlist the counsel of the Butte County Office of Education on possible solutions to its fiscal insolvency.
2. If the BUSD is salvageable financially, the citizens of Biggs in conjunction with Biggs Unified School District Board of Trustees must immediately and decisively address the crisis of leadership in its district.
3. The BUSD Board of Trustees is encouraged to develop and adopt a one, three, and five year plan for a return to service excellence in education in Biggs within a six month window of receiving this report. These goals should be objective, measurable, and realistic.
4. The administration must immediately cease and desist from its present behavior, which has intimidated staff and lowered moral.
5. The citizens of Biggs and the BUSD Board of Trustees are encouraged to take immediate steps to mitigate the harm caused and publicly discuss these findings and recommendations in an open forum.
6. Policies and procedures for the BUSD are in need of immediate revision and should all be in written form.
7. BUSD Administration is encouraged to abandon its oppositional actions and attitudes about the Biggs Unified Teachers Association (BUTA) and enlist their help to resolve the sizeable problems this district faces. This requires

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unity in redefining its purpose. Above all, it requires tenacity, veracity, and accountability in the implementation of its intent. This Board of Trustees needs all the expert help and integrity they can muster to get through these challenges.

Response required (Penal Code § 933 & 933.05)

Superintendent, Butte County Office of Education
Superintendent, Biggs Unified School District
Principal Biggs High School
President, Biggs Unified School District Board of Trustees

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Exhibit A

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

DIVISION OF PROFESSIONAL PRACTICES

1900 Capitol Avenue

Sacramento, California 95814-4213

(916) 445-0243

FAX (916) 323-6735



April 29, 2005

[REDACTED]

Re: Ralph Vandro

Dear [REDACTED]

At its April 20-22, 2005 meeting, the Committee of Credentials reviewed the affidavits you submitted and has recommended a public reproof.

Thank you for bringing this matter to the attention of the Commission on Teacher Credentialing and sharing your concern for the welfare of California's students.

If you have any questions regarding this matter, please call (916) 445-0243.

Sincerely,

A handwritten signature in cursive script that reads "Janet Vining".

Janet Vining
Senior Staff Counsel
Division of Professional Practices

JV:cmg

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The Fair Political Practice Commission, Butte County, and You

Reason for Visit/Investigation

The Grand Jury, during the course of pursuing several investigations, visited the Office of the Clerk-Recorder/Registrar of Voters to view the publicly available Form 700 that is required by California's Government Code § 87200-87313 and enforced through the Fair Political Practice Commission in conjunction with California's Franchise Tax Board anti-fraud unit and local agencies. The Grand Jury was attempting to collect evidence on allegations of misconduct in totally unrelated departments that were required to comply with both state and local ordinance in filing with the Clerk-Recorder either full financial disclosure or partial disclosure of financial investments or practices that might create conflict of interest in the fulfillment of assigned duties for Butte County. Upon review of these files, we discovered that the required forms were not on file and were not being completed.

Background/Investigation

The Clerk-Recorder's office performs a wide range of functions that can essentially be broken down into three parts: 1) Elections, which includes filing for candidacy, campaign finance disclosure, registering voters, and executing the county's elections; 2) County Clerk, which includes marriage licenses, passport applications, fictitious business name filings, notary filings, etc.; 3) County Recorder, which includes recorded documents/official records such as birth, death, and marriage certificates, maps and deeds. Included in this year's Grand Jury report is a report on the November of 2004 election; the Grand Jury found in that investigation as well as while concerning ourselves with the problems related to the Form 700's that the clerk's office is an extremely hard working and efficient organization. The persistently helpful customer service, high energy levels, and very apparent organizational skills of the staff is the backdrop by which we found the incompleteness of the Form 700 files so perplexing.

The intricacies of the Fair Political Practices Commission's (**FPPC**) authority are complex, but there is a logical and functional flow of delegated authority within California law that requires many locally elected officials and specified political appointments (such as planning commissions) to file with the state through the County Clerk's office full financial disclosure of personal financial information including income, investments, gifts, and some types of loans. Additionally, cities and towns, school districts, courts, and other public entities supported by tax dollars must establish a conflict of interest code that must be reviewed biennially to, in part, ascertain that all department personnel required filing conflict of interest statements (Form 700) are in compliance. The conflict of interest code adopted by the public agency and any amendments must be submitted to the FPPC through a designated filing official. This code must contain designations of positions within the organization that have purchasing power or decision making

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abilities that could potentially facilitate a financial gain for the decision maker. While crafting this conflict of interest code, a public entity may designate a specific position as required to make one of two types of filings: A "Type I" filing requires full financial disclosure and is typically assigned to those with a broad decision making ability such as a department head or a Plans Examiner or Building Inspector within Butte County's Department of Development Services. A "Type II" designated position would only be required to disclose investments, income, including gifts, loans, and travel payments of the same type that is utilized by the agency or department with which the employee is involved.

The Form 700 filing requirement states that filing must occur within sixty days of assuming and leaving office, as well as annually while in office by April 1. This requirement effectively puts a very powerful research and accountability tool into the hands of the public. It was our impression, during the course of our investigations, that it is rare for citizens to peer into the backgrounds of officials and employees that have filing requirements using this tool and that, consequently, the importance of the task may have been marginalized. Within Butte County, there are a few different locations that we are aware of that are responsible for collecting Form 700's. Butte County Office of Education collects Form 700's for school districts, Butte County's Clerk of the Board collects the form for some Board of Supervisor appointments that are designated within the county's conflict of interest code that are not specifically mentioned in California Government Codes §87200-87313, and the Clerk-Recorder's office collects forms from elected officials, appointments specified by statute, and from county employees designated by ordinance to its oversight (see Exhibit B at the end of this report). The Grand Jury did not inquire into the management of these forms by cities or towns for their employees, but for reference, the FPPC maintains a website at <http://www.fppc.ca.gov> and a toll free telephone number (1-866-ASK-FPPC) that provide excellent and almost instantaneous help for both filers and public researchers.

California law designates two distinct roles for an office responsible for collecting Form 700's; the office may act as filing official or as filing officer. When California code specifically mentions a position that must file, the collecting office acts as a filing officer. In essence, the filing officer will act as a central repository for forms to be forwarded to the FPPC and maintain copies for public scrutiny; the office will record the date and time of receipt of the form or the postmark before transmitting them to the state. In these cases, the FPPC acts as the filing official with the ability to levy fines for late filings, to hold administrative hearings on late filings, receive public complaints about inaccuracies within the form or possible improper political behavior. A filing official does not have the power to criminally prosecute violations of California law but can work in conjunction with the California Attorney General or a local District Attorney. The Grand Jury did not find many problems in the Clerk-Recorder's office with regard to her duty as filing officer; we reviewed a small cross section of elected officials as well as the filings of the Butte County Planning Commission. There were small notable

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irregularities with regard to the Planning Commission; while turnover of appointments of commissioners is infrequent, the Clerk-Recorder office has no mechanism for knowing when a new commissioner is appointed by the Board. One member did not file an assuming office statement on time but did file an annual statement as an assuming office statement the following March. Another member of the planning commission filed late most years except 2005 and was fined by the FPPC hundreds of dollars during those years (California code provides for a fine of ten dollars per day); that member declared partial ownership in a real estate business/investments located within his district during his first year in office but filed no conflicts every subsequent year since then. However, it is not the function of a filing official to evaluate the content of the Form 700, merely the completeness of the forms and timely filings; it is up to the public to scrutinize our public officials and employees.

During the process of Butte County's biennial review of its conflict of interest code provisions, the Office of County Counsel asks department heads to review positions that are listed in the ordinance and to justify adding, deleting, or upgrading/downgrading the type of filing an employee or appointee must make; County Counsel then reviews the results of those surveys and submits them to the Board of Supervisors in the form of a resolution including a chart of designated positions. Exhibit A at the end of this report contains a sample. County Counsel also includes language designating the responsible filing officer for the designated positions. Exhibit B at the end of the report displays an example of that information. The approved resolution and charts are then forwarded to the responsible filing official for collection of forms, as well as appropriate fines and administrative actions to ensure compliance.

Shortly after the Grand Jury began its investigation into very serious allegations of county employees accepting inappropriate gifts, having secondary employment in conflict with their county employment, using county vehicles and county paid time to support their secondary business ventures, the Grand Jury discovered that many of the forms for which we were looking, for which the Clerk's office acts as filing official, were never received or pursued for receipt. During interviews with the Clerk-Recorder and her staff, we discovered that the established process neglected to include any mechanism for cross matching the names of active employees, new hires, attrition, or the number of positions staffed within a job description at any given time. The Clerk-Recorder reported that ten or more years ago the county's personnel office would provide a monthly printout of new hires and employees who had left. She was unsure what had happened to that process and seemed to be frustrated by her office's attempts to reestablish a functional effort at coordination.

Subsequently, the Grand Jury interviewed the county's Director-Human Resources, a personnel analyst, and two attorneys from the Office of County Counsel. The current Director-Human Resources was unaware of previous coordination between offices and was only vaguely aware of the legal

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requirements under which the Clerk-Recorder's office must operate; she stated very clearly that her office "has no involvement in Form 700's." The personnel analyst we interviewed was unaware of the existence of the form and had to look up what it was in preparation for our interview. When we interviewed County Counsel, we felt that there was genuine surprise on their part about this information gap. During the course of that interview, County Counsel agreed to be involved in an effort to help the Clerk-Recorder's office maintain legal compliance with these responsibilities; additionally we received a letter from the Human Resources Director indicating that she would become involved to help resolve these problems.

Subsequently County Counsel met with County Clerk-Recorder, Assistant Director of Human Resources and other Human Resource and Clerk-Recorder personnel to address those above discussed shortcomings. That meeting resulted in the following procedural modifications:

New Human Resources Procedure

1. Human Resources now examines new hires, promotions and terminations to ascertain whether they are designated positions with the County Conflict of Interest Code required to fill our Form 700 Statement of Economic Interests.
2. New Hire packets contain a checklist of all forms to be filled out. One of these forms is the Conflict of Interest Form 700. That form is included in the new hire packet.
3. All Personnel Action forms and Appointment Documents have a box, which indicates if the employee or appointee is required to fill out a Conflict of Interest Form 700.
4. All employee/appointee terminations are also reviewed and if they are a designated position, are required to fill out a leaving of office statement.
5. The names of effected personnel are forwarded to the Elections Department every pay period. If there are name changes, that information is forwarded as well.

New County Clerk/Elections Procedure

1. The Elections Department undertakes a 30-day follow-up to make sure the newly hired or newly promoted employee has filled out and filed the form.
2. Elections will follow-up 30 days after termination to make sure employee has filled out and filed the form.

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The current system of attempting to maintain legal compliance with Form 700 collection requirements is not as completely logical as it could be; for example, only some Board of Supervisors' appointments are collected by the Clerk of the Board, while some remain the responsibility of the Clerk-Recorder. The Grand Jury itself is required to file this form with the clerk's office; during the course of our term we discovered that the coordination with the Superior Court when jurors left office and alternates were called did not occur and legal compliance was not maintained.

Findings

1. Most public filings of documentation required by the FPPC and Butte County ordinance are routine and may never be reviewed by the public. These filings can be an invaluable asset to the public when there are allegations of misconduct.
2. The current system of collecting Form 700's does not adhere to a logical system of organization that allows required information to flow to the Clerk-Recorder's office to maintain legal compliance with FPPC requirements or California code.
3. The county's personnel office has not been involved in coordinating filing compliance with the clerk's office for a long period of time; the Grand Jury does not believe it is possible for compliance to be achieved without that involvement.
4. The current system of collecting Form 700's at the Clerk-Recorder's office is currently inefficient and ineffective due to the lack of coordination referred to above.

Recommendations

1. The Board of Supervisors should work with County Counsel and county filing officers/officials to ensure a logical system of maintaining Form 700 filing compliance; as an example, we believe that a review of all positions that have designations for those requirements that are Board appointments should result in assigning responsibilities as Filing Official/Officer to the Clerk of the Board.
2. County Counsel should spearhead an effort to coordinate with the Superior Court an effort to move the Form 700 filing requirement to the responsibility of the Court Executive Officer for the Grand Jury. We acknowledge that the Grand Jury system is in a strange limbo due to the separation of the courts from the county, where the Grand Jury is funded by the county, but acts, by California Penal Code "as an arm of the court"

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(now a state entity), so if this effort cannot be coordinated, County Counsel should work with the Grand Jury foreman to develop training materials to be included in the Grand Jury procedures manual and introduced by County Counsel to the Grand Jury foreman at the beginning of each Grand Jury term to ensure reporting to the Clerk-Recorder's Office.

3. The Board of Supervisors should work with County Counsel and the director of human resources to ensure that job descriptions that have Form 700 filing requirements are appropriately noted with the type of filing and that those job descriptions are reviewed and updated upon every completion of the required biennial review. The required form should be included in every new employee packet carrying this requirement, and personnel staff should be aware of instructions to give new hires on how to get help should they need it as well as the required filing deadlines.
4. The Clerk-Recorder's office should institute an annual training that is required for appropriate personnel staff and available to all designated filers. In departments that have significant numbers of required filers, we recommend that the department head attend or designate a staff member (such as a payroll clerk or administrative assistant) to attend the training to assist compliance within that department by helping distribute forms, collecting and forwarding forms, and by giving people information on who to call for assistance on completing the forms.
5. The director of human resources should identify and request needed technology or automation tools to provide the Clerk-Recorder's office timely reports of new hires, employee attrition, and an annual report of currently staffed designated positions to be available to the Clerk-Recorder not later than January 30 of each year. The Grand Jury does not presume to know the right tool for personnel needs, but we are aware that the Kronos HR module should support automatically generated e-mails for this purpose as an example of the type of automation we are recommending. Should current technology not be sufficient and funding not available for a new solution, a system of flagging personnel files or verifying this legal requirement upon each employee entry and exit for the purpose of notification should be implemented. Then lists must be provided within the first month of each calendar year.

Responses Required (Penal Code § 933 & 933.05)

Butte County Board of Supervisors
Butte County Counsel
Butte County Director- Human Resources
Butte County Clerk-Recorder/ Registrar of Voters

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Exhibit A

Sample Designated Employees for Butte County Conflict of Interest Code
(Butte County Board of Supervisors Resolution 03-173, adopted
12/16/2003, Attachment B page 3)

Agency/ Position	Disclosure Category
Development Services	
Director- Development Services	I
Building Inspectors I, II, III	I
Planning Manager	I
Senior Planner	I

Where to File:

Exhibit A:

Where: County Clerk-Recorder
Butte County Elections Department
25 County Center Drive, Oroville CA 95965

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Exhibit B

Sample Designated members for Butte County Conflict of Interest Code (Butte County Board of Supervisors Resolution 03-173, adopted 12/16/2003, excerpts from Attachments C, E)

Part I- Committees and Commissions

Agency/ Position	Disclosure Category
Airport Land Use Commission	
Members	
Alternate Members	

Part II- Committees and Commissions

Agency/ Position	Disclosure Category
Butte County Water Commission	
Commissioners	
Grand Jury	
Members	

Part III: Committees and Commissions

Agency/ Position	Disclosure Category
Parole Board	
Members	

Where to File:

Exhibit B Part I:

Where: Clerk of the Board of Supervisors
Administration Office
25 County Center Drive, Oroville CA 95965

Exhibit B Part II:

Where: County Clerk-Recorder
Butte County Elections Department
25 County Center Drive, Oroville CA 95965

Exhibit B Part III:

Where: Butte County Consolidated Courts
Court Executive Officer
One Court Street, Oroville CA 95965

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Butte County Jail

Reason for Visit/Investigation

The Grand Jury is charged by the California Penal Code to review all detention facilities in the county each year. The Grand Jury visited the Butte County Jail on October 20, 2004, and the Law Enforcement Committee visited again on December 8, 2004, to review procedures and inspect the facility. The Grand Jury also visited the Butte County Juvenile Detention Center on December 1, 2004, to inspect this facility.

Background/Investigation

Overcrowding is a serious problem in the county jail system. The Butte County Jail operates under a consent decree (Butte County Superior Court Case #084429), which controls staffing, population, and housing conditions.

The Butte County Jail facilities housing the male and female population were built at different times. The male population, being significantly larger, is housed in the newer and larger jail facility, which was completed in 1994, while the women are housed in the older, smaller facility, completed in 1963. Inspections conducted by the Board of Corrections (BOC) are subject to standards based on the dates of construction. Thus the men's facility is evaluated under the 1994 Title 24 Standards, while the women's facility is measured against the 1963 Standards.

The current BOC recommendations address upgrading and enhancing the women's facility. The cost of a complete renovation to upgrade this facility is considered prohibitive. However, some upgrades including replacing the toilets and sinks, installing toilets and drinking fountains in the two exercise yards, and adding concrete to the two west side exercise yards have been completed, thus bringing the women's exercise yard up to a usable condition. A roof installed over a portion of the yard allows use in a variety of weather conditions.

Overcrowding continues to exist even with early-release programs, such as Sheriff's Work Alternative Program, Electronic Surveillance Program, Own Recognizance, and cite-and-release.

This Grand Jury found the Butte County Jail to be operated and maintained in a professional and efficient manner. We understand that improvements still need to be made to the women's side of the facility and we fully expect those improvements to be made when budget constraints are no longer an impediment to this happening. This Grand Jury toured the entire facility and found the staff to be competent and forthcoming with answers to our questions. The kitchen area was clean, well stocked, and set up in a highly efficient manner.

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The Law Enforcement Committee returned on December 8, 2004, unannounced, with the sole intention of inspecting the medical facility of the Butte County Jail. We were allowed total access to the medical facility and the personnel staffing this facility. We found all inmates were given access to medical care without prejudice. The facility is staffed Monday through Friday from 9:00 A.M. to 5:00 P.M. by a qualified Physician's Assistant, and he is backed up by a qualified nursing staff. This facility handles approximately 50 patients per day and any emergency situation is handled through the county's 911 system, with the inmate being taken to Oroville Hospital to receive acute care that is not available at the jail facility. A dentist is available one day a week, Wednesday, to handle any dental needs that arise. We inspected the dental room and found it to be clean and to have all the necessary equipment to perform dental procedures safely. This committee came away with the feeling this facility was well equipped and staffed to handle any non-emergency medical need.

On December 1, 2004, the Grand Jury visited the Butte County Juvenile Detention Center (BCJDC). This is a new facility and we found it to be clean, bright, and modern. The BCJDC is set up as six pods, each pod houses 20 juveniles; on the day of our visit there were 53 juveniles in the facility. At the current time, due to budget constraints, one pod is not being used. All juveniles in BCJDC are required to attend school within the facility. We were given a tour of the classrooms and were allowed to actually observe a class in session. The instructors are long-term teachers who seem to be competent and like working with these youths. The classrooms were setup to enhance the learning experience and we could find no glaring deficiencies. The medical facility is also modern, and a nurse is on duty eight hours a day, seven days a week. The Physician's Assistant from the Butte County Jail visits the BCJDC three days a week and any emergency is handled in the same fashion as at the jail. The kitchen facility was clean and well maintained with a system in place to account for all equipment used. We feel Butte County has a state of the art facility and should take pride in its operation and upkeep.

Findings

With the exception of the clearly deficient women's section of the Butte County Jail, this Grand Jury feels the jail and juvenile detention center are excellent facilities and serve the county well. When budget woes are no longer an issue we would expect to see the women's section be either brought up to par with the men's section or a new women's facility be built. We would also like to see the Butte County Juvenile Detention Center operate all six pods.

Recommendations/Responses Required

None

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Development and Land Use in Butte County: Planning Privation in the Land of Natural Wealth and Beauty

Reason for Investigation

During the course of our term, the Grand Jury received many written complaints about slow and unfair practices related to issuance of building permits and land use decisions by Butte County's Department of Development Services (DDS). The Grand Jury was aware that there had been multiple and large fee increases for development projects and felt compelled to investigate if there is a direct relationship between fees paid and services provided. Additionally, the Grand Jury had concerns about the age and relevance of the Butte County General Plan. We were motivated to inquire into the progress of the county to bring the single most important planning document into legal compliance with state law. We also wanted to look into the expenditure of funds for consulting services for completion of the General Plan update.

Background/ Investigation

The Grand Jury began its investigation attempting to evaluate the performance of the Department of Development Services as a result of complaints that alleged unprofessional and potentially corrupt behavior, favoritism, unpredictable turnaround times for project applications, and the erratic approval criteria. We learned that the process of approval of the building of new structures and decision-making related to zoning and land use frequently involved no fewer than six county and state departments or divisions. Any of the involved departments can affect a bottleneck or stop a project. Upon learning about some of the complexities of regulations related to building and land use, learning the long history of Butte County not maintaining its General Plan, and learning about more than a decade of the restructuring of development review processes, we began our investigation of the complaints.

The Grand Jury devoted over 600 hours of member time to this study. We interviewed 65 witnesses (some as many as three times) ranging from former and current Butte County employees and officials to local builders and experts from the State of California. We sought expertise and counsel from court appointed Special Counsel with expertise in land use from outside of Butte County and consulted with the Butte County District Attorney when we were unclear on distinctions between improper versus illegal conduct. Typically, the Butte County Office of County Counsel advises the Grand Jury when legal complexities arise. From the outset of our investigation, County Counsel advised us that they could help with questions only in matters involving our civil watchdog function that did not involve improper or possibly illegal conduct by county officials or employees, due to potential conflict of interests. When we arrived in a

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position that we understood the schizophrenic nature of the forces at work within Butte County government surrounding issues of development, the Presiding Judge of the Butte County Superior Court and the Butte County District Attorney concurred that independent legal advice was needed to clarify legal issues surrounding our belief that the Supervisor from District 4 has been acting inappropriately in his attempts to manufacture consent for favored projects, undermining DDS' staff ability to manage priorities and perform legally required and sufficient review of some applications.

We read thousands of pages of public records including communications regarding ongoing projects, years worth of customer comment cards from DDS, complaints obtained through the Public Records Act, and we read sections of the Butte County General Plan. We also reviewed the required Form 700's of designated county employees, appointed and elected officials, performed analysis of required Form 460's for campaign finance disclosure of current and previous members of the Butte County Board of Supervisors. Additionally, we built a spreadsheet of all building permits available on Butte County's website from 2002-2005 for statistical analysis of approval times by stated type of permit, read selected internal Policies and Procedures of Development Services and other county departments. We reviewed multiple fee studies and court transcripts of litigation related to redistricting within the county and mailed over 150 surveys to licensed builders/general contractors as to the performance of the building related departments of Butte County and its cities and town.

It is not possible to present all of the corroborating evidence of our work within this paper. It is our intention to clearly detail the specific actions of every current member of the Butte County Board of Supervisors that have been in office for more than one year who have at one time or another made unsuitable individual decisions and taken actions based on their own personal beliefs and/or disgust with the Butte County policy making process. By doing so, we believe these individuals undermined the effectiveness of efforts to create a policy driven and efficient development apparatus and contributed to the failure to update the General Plan. During the course of this report, we will specifically outline who and how specific elected county officials have perpetuated an ongoing campaign to smear the reputations of Butte County's public employees and push an agenda of select resignations, retirements, discipline, and termination to erase the institutional memory of their own behaviors and divert attention from the impacts generated by their own actions. This report will detail specific mechanics of manufacturing consent for results on specific development projects while publicly stating goals of doing away with a "good old boy network" that has resulted in a new system of privileged developers/builders based on unsanctioned personal visions for economic and land development for the county in what we believe is a deliberate vacuum of sufficient permit approval processes.

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Our research will demonstrate that development related decisions, and the behaviors of the Butte County Board of Supervisors, have significantly contributed to laying the groundwork for the ongoing fiscal crisis of Butte County Government and created a substantial hidden debt. This hidden debt has the potential to hinder the policy vision, economic development, and quality of life in Butte County for decades to come.

High Times in Butte County

As stated previously, there are many departments involved in the development application process. Their involvement varies depending on the nature of the department; some only have responsibility to act on decisions that are made, some are required to apply a legal and policy driven set of filtering criteria to determine if the proposed use of a piece of land is consistent with guiding policies. Proposed structures must go through a process of peer review for health and safety as defined by the Uniform Building Code and all structures must be built on a legally created parcel. Additionally, structures must have appropriate access for emergency vehicles such as fire trucks and must be set back from property lines in such a way as not to impede with utilities, road drainage or future expansion due to road widening, curbs, and sidewalks. Wells or swimming pools must not be built in a location that is likely to become contaminated by septic systems, etc. All of the decisions that are made by all of the involved departments are required to be filtered through a massive body of federal and state laws as well as local ordinance and policy, of which the General Plan has been consistently judged by the courts to be the overarching “constitution” by which local ordinances, policies, and decisions should be made.

The departments that are involved in the development approval process will be discussed in various depths in this report. The Department of Development Services acts as the spearheading “Super Agency” to coordinate applications as they go through the process. Public Works assumes responsibility for roads and road improvement, curbs/gutters/sidewalks, as needed, easements and drainage, erosion control and contamination of waters from runoff, as well as accuracy of newly recorded deeds with regard to legal descriptions of lots. Environmental Health (a division of Public Health) is in charge of permitting water wells, septic or non-municipal engineered sewer systems, swimming pools, commercial kitchens, and other projects that are required to operate as sanitary facilities such as food handling warehouses or a sanitary landfill.

The California Department of Forestry (**CDF**) looks at projects for access for emergency vehicles, brush clearing buffers from existing and proposed structures by characteristic of fire dangers within the zone of the location of the property, fire retardant quality of walls and roof shingles, adequacy of emergency egress from buildings or if a fire sprinkler system is required, or if new fire hydrants are required and if water volume/pressure to those sprinklers or hydrants is adequate. The Agriculture Commissioner looks at projects with

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concerns about protection of designated agricultural lands, enforcing “buffers” for structures from agricultural operations to prevent health problems related to drift of chemical spray and nuisance related to noise and dust created by agricultural operations.

The Office of the Clerk/Recorder is responsible for maintaining public records of recorded land and building transactions. The Assessor’s office must track every land or building transaction and adjust property value/taxation rates when legally allowed or required to do so. The Office of County Counsel reviews and advises on legal matters with regard to complex land use and building issues, attends and advises at public hearings where land use or building issues are involved, and reviews existing/proposed local ordinances and resolutions for consistency with other Federal, State, and local codes and policies including the General Plan. Butte County Administration Office maintains a network of deputies that work with county departments to facilitate budgeting and policy issues that may need to be brought before the Board of Supervisors for public hearings and an eventual decision making process.

This investigation began with the intention of learning about the working conditions of Development Services, which has been in a nearly constant cycle of reorganization since 1991. In 1993, the Board of Supervisors approved merging several county departments together with the intention of streamlining the decision-making and approval process required for new development. The department is currently divided into four divisions: 1) Program Resource and Development is essentially an administrative unit that includes financial management/accounting and all clerical support; 2) Geographical Information Systems (GIS) coordinates with Chico State University, Butte County Association of Governments, Butte County’s Information Systems Department (**IS**) and others to provide a wide variety of demographic and geographic data to county departments and the public; 3) Planning processes applications for subdivisions, parcel splits, projects that involve existing non-conforming structures, and requests for zoning changes or exceptions; 4) The Building Division is subdivided into a Permit Center that accepts and routes planning and building permits and related fees, Plans Examiners that review proposed structures for health and safety issues, Building Inspectors that review construction projects in various phases of completion for consistency with the Uniform Building Code (**UBC**), and Code Enforcement, which is responsible for ensuring compliance with the UBC with regard to the health and safety of existing structures as well as enforcing the recently adopted Abandoned Vehicle Abatement (**AVA**) program.

In Butte County, the building industry has been long considered, along with agriculture, a primary economic driver of the county. A majority of the current Butte County Board of Supervisors reported a significant portion of campaign funding derived from development related sources. The Grand Jury had to instruct one of its own members to abstain from all involvement and decision making with this investigation due to a potential conflict of interest. Butte County

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has historically been a rural county with significant challenges in the financing of county government with agriculture and building as primary industries. These businesses generate little or no sales tax. Since the advent of Proposition 13 in 1978, residential development has dramatically increased financial challenges to county government. For example, some of our research suggested that in Butte County, a single family home consumes as much as seven dollars in services for every dollar in property tax generated. Newer data suggests that the rapid rise in home prices are closing that gap and that a home valued at over \$300,000 breaks even at current county service levels in some areas of the county.

Unfortunately, our analysis of this home appreciation phenomena shows that while the funding mechanisms for property tax have benefited from the recent rapid rise in home prices, it is unlikely that home price valuations will continue to increase indefinitely at a rate well beyond current rates of inflation, and that the gap between collected property tax and the cost of services will again widen as property taxes are only permitted to be collected at a rate of one percent of the assessed value. At the present time, approximately twelve percent of every dollar raised in property tax comes back to the county to fund governmental functions, many of which are mandated by the State of California. Agriculture, although a significant source of income for the county, provides very little tax revenue while also requiring very little in the way of county service.

With the Butte County government operating in a mode of financial crisis much of the time over the past few decades, the county's inability to provide required and desired services has had a major impact on its ability to attract businesses and industry that would create local jobs and generate sales tax. Sheriff's Department response times, lack of municipal sewage treatment, and inferior highway and road capacities have been part of a picture that has made the county's economic development slow and troublesome. In the 1970's, High Times magazine had a feature that promoted Butte County as a good place for narcotic activities due to the lack of law enforcement, and urban areas such as Los Angeles were placing advertisements promoting Butte County as an affordable place to live on welfare. In 1978, when Proposition 13 was passed, the county became locked into a very low tax rate. This created a very unhappy framework for Butte County that only in the last few years has begun to change. It was during this era that most of the last major policy hearings took place and major policy changes were adopted into what is nearly three decades later still the Butte County General Plan.

The Butte County General Plan

A General Plan is a technical document that addresses a long-range vision of the community. Most often the plan contains projections of population growth and assumptions of economic development. It is a fluid public policy document that is

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permitted by law to be amended not more than four times per year. A General Plan contains policy statements that court decisions have consistently ruled are the overarching guiding criteria for decisions related to how land may be developed.

Exhibit A at the end of this report contains part of a dialogue from 2000 and 2005 between the California Attorney General's Office, the Governor's Office of Planning and Research (OPR) and the Butte County Board of Supervisors. The guidelines in the 2005 letter from the OPR suggest that they recommend that a jurisdiction such as Butte County revise 5 of 7 mandatory elements every 8 years; that the records of the OPR indicate that 2 Butte County elements are 34 years old, 1 element is 32 years old, 2 elements are 28 years old, 1 element is 26 years old, and 1 element is 1 year old. The Grand Jury has not seen a response to this most recent letter, but included in Exhibit A is a similar letter from the year 2000 and the county's reply. Much of the language of the reply describes efforts on smaller regional plans such as the North Chico Specific Plan, Airport Land Use, etc. and the work plan submitted contains details of the ages of regional plans such as Forest Ranch, which was completed in 1983. The last part of the exhibit contains explicit warnings from the Attorney General's office of the potential consequences of failure to comply with recommended practices in land use policy.

One of the citations of the Office of the Attorney General is a court case from El Dorado County, where Butte County's current CAO and a former director of Development Services were previously employed. The resulting litigation essentially shut down all development that was not permitted by right with existing policy until such time that consistent policy could be adopted in that county. It is our belief that in 2000, Butte County was being reminded by the Attorney General as to the fate of El Dorado County in shutting down development not permitted by right, but the letters sent by the Butte County Board of Supervisors that included the work plans appear to have been accepted, for now. However, the documentation suggests that the work plan was to be completed in 18-24 months; it does not appear to have been completed after 5 years. California law requires that the housing element of a General Plan be updated every five years to ensure that every jurisdiction sets aside enough land for residential development to provide housing, including low income and community housing, to accommodate State generated projections of population growth. Butte County is currently in compliance with this state law, but in the 1990's, the county was denied grant funding for low income and community housing due to lack of compliance.

In 1991, the county retained a consultant to begin a new General Plan update, but by 1993 the will and organization to complete the update had faded. Testimony from multiple interviews suggest that the reasons included very poor financial conditions for the county at that time and lack of political will to address the public policy questions that were justified by questioning the quality of the

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report generated by the consultant. In 1998, after a new director of the DDS was recruited (formerly from El Dorado County), an effort began once more to update the document. This effort disintegrated after a new member of the Board of Supervisors was elected in District 5. The District 5 Supervisor testified that in 2001, he began his term by attacking the director of DDS.

The District 5 Supervisor testified that he suggested termination of the DDS director in his first Board meeting in closed session, but learned he had to wait until his second meeting due to Brown Act requirements. Removing the director was a campaign pledge; he stated he believed "the director of DDS was using the department as an instrument of controlling growth in the county." The termination was approved on a three to two vote with Districts 1, 4 and 5 voting yes. In our estimation, this termination was part of an aggressive clandestine plan to undermine the ability of county government to regulate development that will be discussed later in the section **Bad Behavior**.

Poor Planning

Between 2001 and 2002, the county employed two different interim directors in Development Services; during this time there was little or no activity with regards to the General Plan. In July of 2002, the current director was hired with the mandate to reorganize the department and to complete the General Plan update. The current director came from a background of building and has no formal education in planning. Documentation suggests that her only planning qualifications were incidental exposure at her previous employment. As a result of our first interviews with her, the Grand Jury developed an initial impression of her as a highly organized and energetic person with a zeal for policy, and a vision for her department that included sweeping out remnants of a culture of unprofessional behavior.

We gradually learned through testimony and documentation (including her personnel file) that very few county officials believed her spin doctoring, but no one volunteered this information. It took persistent investigation and questioning to get the true picture. We learned from her and her staff and those in related county departments that she had a tendency to manage political pressure and situations by claiming not to review maps or documents when she made a politically favorable ruling on a project or policy. When support was requested from unsupportive elected officials, testimony suggests she was often not responsive. When situations arose with her staff or other departments, she would frequently create policies by email without consulting affected parties as to the impact of the policy.

During the current Director of DDS's tenure, a Planning Manager was hired and left in less than two years. Testimony regarding his tenure is conflicting as we heard testimony that some members of the Board of Supervisors and the Director of DDS did not have confidence in him and he was asked to resign. In

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interviews with this former Planning Manager, he stated that he never settled into Butte County and left for personal reasons. We heard testimony from county officials that they blamed the current director of DDS for the hiring choice, but the net result was that the current director assumed most of his responsibilities.

Consultants have done almost all of the work on the General Plan since 1998, and that work is still considered relevant. In the spring of this year, the DDS presented to the Board of Supervisors a technical update, provided to her by the consultants Mintier & Associates. It is important to note that this is not a new General Plan, nor is it intended to contain any new policy. It appears to contain only changes in organization and language that attempt to make it a legally defensible document; a General Plan must be consistent from beginning to end in its language and policies. The technical update is not supposed to change policy. However, this technical update is reported to be already politically charged, since some read changes in language as a policy change. The current Director of DDS has tendered her resignation effective August 1, 2005; we do not know how that will affect the General Plan technical update, or the future of the "real" General Plan update.

The county's Chief Administrative Officer (**CAO**), before the announced resignation of the current director of DDS, predicted that the policy update to the General Plan would take four to five years. He expects it to cost up to five million dollars in staff time, consulting fees, and Environmental Impact Reports (**EIR**) depending on the number and type of policy changes. A period of public comment and review and the level of detail that the document includes will dictate the costs. This public comment time has already begun and seems to us to be poorly advertised or attended. It is unclear if the update to the General Plan will address the questions of how Butte County intends to provide services to new and existing communities, or promote economic development.

The Department of Public Health was instructed this spring to begin a study of wastewater treatment options that includes appropriate funding mechanisms. Possible options could include either county operated regional wastewater treatment facilities or the approved use of a county operated enterprise fund for maintenance of engineered systems by subdivision. An enterprise fund is a fund that legally adjusts its rates based on expenses without the need for a tax increase approval. We will discuss this later in the report, but this is a type of study that provides a level of detail for a General Plan update or supporting documentation. This level of detail is required for policy statements to be implemented successfully.

The Grand Jury has serious concerns about the chances of success of this drive to complete the update to the General Plan. Besides the technical update, the current General Plan reflects a time when Butte County visualized itself as a small, sleepy rural county. It is time for county officials to tell the public what every county official and Supervisor seems to know: the development pressures

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of Southern California and the Bay Area are upon us. Butte County will likely have all of the litigation and policy pressures that come with big dollar developers coming in to irrevocably alter our landscape before they return home. Big developers will very likely try to go to the front of the policy line while the rest of the citizens of Butte County wonder if we should become involved or not. It is our impression that many people believe there are political factions that are "pro" or "anti" growth. We found no dissent in the elected officials we spoke with over whether growth would happen. The concerns we heard were qualitative about "how and where." During our investigation, we came to question the motivations of those responsible for completing the General Plan update; we are convinced that outside influences will try to contaminate the process.

A local newspaper, Chico News and Review, in their articles of April 14th and 21st of 2005, insinuated that certain members of the Board of Supervisors are very interested in what big developers have to offer. The articles implied that political campaigns of the Board of Supervisors could prosper in exchange for approval of a very large subdivision north of Chico and potential county ownership of land as a mitigation bank. The articles state that a developer suggested that the county could later sell the mitigation credits to developers. The Butte County CAO seemed to feel strongly, when we asked him about this, that much of what was presented by the developer promoting the mitigation bank concept that was reported in the Chico News and Review articles was smoke and mirrors. Mitigation credit ownership could put the county in a conflict of interest situation since it would stand to directly gain a financial benefit from all development approvals that required this type of mitigation. Questions of which developers would get the finite number of mitigation credits, and which developers would be first in line, could easily further damage the board's ability to function.

The Chico News and Review articles made statements about campaign financing. Our review of required Form 460's between 2000 and 2004 revealed that the District 4 Supervisor raised the most money of all Butte County Supervisors. He also had the highest percentage of dollars originating from developers. Our analysis suggests that the developer mentioned in the articles contributed in 2003 and 2004, under his own name and three separate fictitious business names, donated \$37,250 to the District 4 Supervisor's campaign. We did not find a declaration of an additional \$10,000 as reported by the Chico News and Review given by this developer for political advertising reported in the Form 460's. We calculated that between 2000 and 2004, the Supervisor from District 4 raised a total of \$90,720. Without including the reported \$10,000, we calculated 58% (\$52,750) of \$90,720 in contributions made by persons or companies with development interests, and attribute 41% (\$37,250) to the developer mentioned in the articles. The Supervisor from District 4, in an interview before the Grand Jury on December 15, 2004 stated that he did not intend to run for another term as a member of the Butte County Board of Supervisors.

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Butte County is no longer a rural county. The state considers us to be a mixed agricultural/urban/suburban county and it became clear during our research that the county's urban growth is accelerating. We have a great deal of concern with how the board makes land use decisions that affect cities and towns. Communities do not begin and end at boundaries on a map; the relationship between the City of Chico and Butte County has long been particularly thorny. Over the last few years some of the nitrate/sewer issues and airport issues have made significant progress through improved cooperative relationships between the current directors of DDS and Public Works and the successful negotiations of Butte Local Agency Formation Committee (**LAFCo**) in coordinating growth plans for the Chico urban area with the county.

However, as the City of Chico grows and the county approves development within the Chico urban area, the county is approving development projects that are inconsistent with possible long term plans of Chico. Chico's Planning Director suggested that the policy of infill, developing density inside existing boundaries, would soon be exhausted; Chico is looking at directions to spread out. The Planning Director stated that many current county approved residential projects are being built on lots of one to five acres, to accommodate sustainable septic systems, and are steadily building a wall around much of Chico. The Planning Director reports that it is unaffordable to provide municipal type services to this type of development should the city decide it wishes to extend its boundaries through annexation. The Grand Jury later realized that while LAFCo is working to facilitate annexations of islands of county property into the city, the county may well be creating new islands that neither it nor the city of Chico can afford to provide service to. The county, by approving these projects, seems to be painting Chico into a box while the county enjoys short-term financial gains from approving these projects.

DDS, Public Works, LAFCo, Environmental Health, and others have been in an ongoing conversation about the county's seemingly preferred special tax district called the County Service Area (**CSA**). There are approximately 90 CSA's in the county. While the county seems to have slowed in creating new ones, the efforts required for ongoing maintenance of these seems outlandish to us. CSA's sometimes allow a subdivision to maintain fewer services to be provided than were required by the Planning Commission or Board of Supervisors at the time of development. When a new subdivision is proposed, the county has traditionally imposed requirements for lighting, drainage, sewer, etc. on that community by setting up a CSA for the new development specifically to fund those services. The Butte County Director of Public Works reports that due to insufficient funds, in some CSA's the lighting may soon all be turned off, and road and drainage may soon be neglected as well. He reports that any significant safety issue will be paid for from the county's general fund, but beyond that the maintenance will stop. However, engineered community sewer systems may not be shut down under any circumstances. There may come a day when Butte County taxpayers

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subsidize sewer services for residents due to the legal insufficiencies of the CSA model.

The Butte County Planning Commission

The Butte County Planning Commission could be a natural liaison to the public for regional hearings that are already taking place around the county for the General Plan update. The Planning Commission is charged with acting as a public hearing body that has authority to approve use permits for changes in land use, the Board of Supervisors acts as an appeal body to the Planning Commission. Form 700 research and interviews indicated that currently, a Planning Commissioner is brought forward by a newly elected Supervisor and is approved by the Board as a courtesy to the new Supervisor. There does not seem to be a selection or application process to determine the background knowledge/qualifications of the individual, nor does it seem that education or conferences are required of commissioners in spite of the rapid change in laws and nearly constant judicial decisions.

From a review of DDS financial records, it appears that only one Planning Commissioner has attended a professional conference in the past two fiscal years. There was not a concurrence of the Commissioners we interviewed as to the relevance of a current General Plan for their own approval criteria, and one Commissioner said that another Commissioner is "not clear about what a zone is." One Commissioner reportedly likes to boast that he is on the Commission to say "yes". We did not do an exhaustive study of the Planning Commission, but it does seem that two of the members can stay up to date with relevant laws and material as part of their professional lives.

At some point in the past, the Planning Commission was reduced from 9 members (one from each Supervisory District and 4 at large from cities and towns) to the 5 we currently have. Removing the four "at large" members has had the impact of silencing a valuable voice; we are not aware why this decision was made. We also came to believe that the system of installing Planning Commissioners without qualification or training requirements has contributed to the approval of projects for erratic reasons that can not be justified with the current General Plan or adopted policies. We discovered that the Planning Commission approves use permits with language in the approved copy that includes authorization for the Director of DDS to approve minor amendments to use permits. There does not seem to be any legal justification for this authority, but rather, Butte County Code section 24-45.45 states, "Any permittee may apply for a modification of his permit by complying with the application provisions of section 24-45 herein. Upon the filing of a sufficient application and payment of the required filing fee, the Planning Commission shall fix a time and place for a public hearing." Any adopted policy to grant this authority would seem to require an amendment to this code section to include that language. The language included in some use permits appears to have been exploited by the current

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Director of DDS as will be covered in depth later in the report in the section called **The Duck Club**.

The Grand Jury is also concerned about funding for the upcoming policy portion of the General Plan update. Butte County, in addition to its normal impoverished state, is currently suffering from the budget shortfalls of the State and its "borrowing" of local funds to fund its own priorities. These conditions change from year to year. However, the CAO assured us that this is a budget priority and the county will be able to afford a five million dollar price tag. There are currently no reserve accounts or funding mechanisms to ensure that there is ongoing maintenance of the General Plan. Butte County does not employ any staff assigned to long range planning for its future upkeep.

Our two major concerns with the county's ability to achieve a comprehensive policy update such as the General Plan will be addressed in two later sections of this report entitled **Meet the Board** and **Policy through Remodel**. We will outline the historical and current operational framework of the Butte County Board of Supervisors and DDS and how it affects the ability of county government to complete a multi-year and politically charged project such as the General Plan.

Meet the Board

The Butte County Board of Supervisors has long been a divided board. The districts that represent the Chico urban area seem to have entirely different priorities/thinking than the other more rural and agricultural districts within the county. The Grand Jury does not remark about or evaluate the politics of any candidate, but it is within its civil watchdog function to observe and comment that the polarization and inability to cooperate on key issues within the Butte County Board of Supervisors has been exceedingly apparent in this decade.

There does not seem to be an issue that divides the Board more deeply than development and land use. Testimony suggests that relationships between supervisors and county staff are used to create priorities or negotiate constituent issues with project approval. This is in spite of a Board adopted policy restricting their own access to staff at DDS. We will discuss Board involvement with projects and staff in depth in the sections of this report entitled **Policy through Remodel** and **The Duck Club**. The current director of DDS states that she has worked hard to limit Board access to her line staff, but the Chief Building Inspector or management level Planners may be contacted with her knowledge. DDS staff reported that in the past, nearly all Butte County Supervisors have made hostile phone calls or come to the department with the complaining constituent in tow.

The former District 1 Supervisor had strong ties to mining and mineral rights, and seemed to have begun his tenure as a strong advocate of the individual right to

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do as he pleases with his property. At the end of his term in 2004, his trend of voting/testimony seemed to suggest that he began to understand the impact of creating policy by granting exceptions to individual landowner and developers. We learned that he supported increases in developer fees and voted to implement residential impact fees as suggested in the Maximus Nexus Study described later in the section, **Lousy Service Meets High Fees: A Legally Defensible Nexus?** Some county officials we interviewed strongly believe that this cost the former supervisor his reelection.

The new District 1 Supervisor, during two separate interviews with the Grand Jury that occurred before the Director of Development Services resigned, refused to commit to any expression of specific policy goals, strategies, or ideas on how to streamline the permitting process. He stated that he believed the permit approval system was broken, but “was getting better”. The only assertion he seemed willing to make was that the director of DDS was a well-paid professional. He stated he would make decisions of hiring or firing based on the results produced by the director; we could not determine what criteria would be used. Perhaps the new supervisor is/was unaware that the CAO, on an annual basis, requests from the board a set of tangible and specific performance goals for every non-elected department head to achieve during the next fiscal year. The department head is reviewed by the CAO annually on the ability to achieve those goals. The Board then approves or revises the evaluation and has the authority to approve up to 15% salary bonus or penalty based on the implementation of the previous year’s goals.

The other members of the Board of Supervisors seem divided in their approach to development issues and visions for Butte County. Supervisors from Districts 2 and 3 are proponents of “smart growth,” which seems to be a “catch phrase” for managing growth through increasing urban densities. It is less expensive to provide services to urban areas due to the density of taxpayers. The Supervisors of Districts 4 and 5 are clearly concerned about economic opportunity in the more rural and suburban communities of the county and seem to believe that Federal, State, local regulations, and the ever increasing complexity of the Uniform Building Code is hampering the individual business and property owners from achieving their potentials and dreams.

To us, the question of how the Board of Supervisors has approached their differences became extremely important while evaluating the impact of Board policy in the restructuring of DDS and the entire development approval process. When DDS became an agency in 1993, the concept was to create a “one stop shop” for proposed projects. At the time, the super agency concept was in vogue nationally to help resolve efficiency issues created by increasing regulation and number of different reviews required. At that point, Planning, Building, Code Enforcement, GIS, Land Development, and LAFCo functions were all merged, but it was discovered that functions performed by some departments such as

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Environmental Health and CDF could not legally be merged into DDS. LAFCo left in 1998 due to new legislation that required it to be independent.

Land Development employees were reportedly unhappy with the move from Public Works, which is traditionally a less politically charged environment. Public Works staff report that not all of the job functions performed by land development were initially moved to Development Services; certain employees were being evaluated by the director of DDS while still having some responsibilities in Public Works. A Land Development engineer stated that he approached the Supervisor from District 3 and found a supportive ally, and as a result Land Development was moved back to Public Works. GIS is scheduled to be moved out of DDS as of July 1, 2005 to become part of Butte County Information Systems (**IS**); county officials believe that GIS has long been responsive to the mapping needs of Planning but has been less customer service oriented with other county departments and the public. The Grand Jury believes that the alleged involvement of GIS in the Plan 5 redistricting episode has created mistrust of that division, which will be discussed in the section **Bad Behavior**.

It is our impression that many of the current or previous county supervisors have had little or no patience for working through policy issues. In an interview with the Supervisor from District 5, he revealed that he believes that the Memorandum of Understandings (**MOU**) with the various unions allow county employees to “put their feet up on the desk” after they complete their probationary period. Testimony revealed that the Supervisor from District 4 went on record with the Chico Enterprise Record singling out Plans Examiners at DDS suggesting multiple terminations were in order. The current Director of DDS testified that when she was hired, she was given a Board mandate to drive “troublesome” employees from the department, much the way the Board of Supervisors seems to burn out DDS directors every couple of years. The District 4 Supervisor also reported to the Grand Jury in December of 2004 that he believed the current Director of DDS would not make the transition from taking her department apart to solving its problems.

The section, **Bad Behavior**, outlines the details of a wave of “customer service” trainings that were required for most county employees. Several DDS staff reported walking away from the trainings with the impression that they were supposed to become retail employees, adopting the philosophy that “the customer is always right”. These employees report the customer service trainings provided no help for them in getting through tense situations when they have to explain fees or tell a customer that their project could not be accepted as submitted.

It appears the failures to update the General Plan over the last fifteen years are a direct result of this lack of patience for policy driven administration. The county’s preferred decision-making process is situational and varies wildly depending on public involvement in hearings, and other unpredictable factors, such as the

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personal beliefs of those who have the vote. The approval of a specific subdivision or project is viewed as a win, and the concerns for the impact of the precedent that is set in policy are considered a nuisance. The details of whether an engineered community septic system fails five years after the developer leaves seems of little consequence. Road congestion, emergency service, aesthetics, and other quality of life issues are left to the county departments to try to solve at some point in the future at an expense typically far greater than the initial cost of implementation would have been. It is the view of the Grand Jury that these attitudes have created a deficit in infrastructure and services in the county, a plethora of ordinances and polices that are poorly written and frequently ignored, and that these attitudes will continue to hamper economic development and modernization of cohesive planning policy.

Bad Behavior

During the course of this investigation, the Grand Jury found it difficult to track how many permanent and interim directors had come and gone, or how many of those had been terminated or driven out since the last General Plan update. We expect that in August of 2005, a new interim manager will be the 7th director in 10 years. It is our belief that this turnover is a direct result of the politically charged environment in which this department operates and the mixed signals that the Board sends. It is also our belief that the recruitment and retention issues within DDS are also a result of this environment. It is our impression that the director had taken sides with a faction of the Board of Supervisors. During a Grand Jury interview, she repeatedly attacked Supervisors from District's 2 and 3 and County Counsel as major obstacles in her ability to do her job.

In interviews with the Grand Jury, the Supervisors from Districts 2 and 3 made it clear that opportunities for confidence and trust between themselves and the Director of DDS had long gone by. County Counsel could not respond to the allegations due to Attorney-Client privilege. A great deal of testimony from DDS and Environmental Health staff addressed County Counsel's legal opinions and conversations with those attorneys. The records we reviewed gave us the impression that County Counsel makes legal interpretations of poorly written policies in favor of the stricter, more conservative policy. Reviews of records suggest that County Counsel is likely to request the Board to make clear changes in policy rather than have staff set policy through loose interpretation.

In early 2001, with a brand new Supervisor from District 5 creating what we would characterize as a triumvirate of chutzpah, an agenda of firings was introduced that seemed intended to create a more favorable development climate. Testimony from county officials including a former Butte County CAO and the current District 5 Supervisor confirms that the Supervisors from Districts 1, 4, and 5, targeted the directors of DDS and Public Works, County Counsel and the CAO for removal. The Public Works director survived by achieving a list of defined objectives provided by other members of the Board, County Counsel

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survived by legal protections provided by California law, and the CAO resigned to “take advantage of other opportunities” when he saw the proverbial “writing on the wall.” The dismissal of the Director of DDS initiated an era of rapid turnover of staff at DDS; we surmise that the public was supposed to believe that the terminations of experienced staff would lead to better policies and procedures. Nonetheless, an interim CAO and interim Director of DDS were in place when the redistricting issues came to a head and landed in court.

The “Plan 5” episode began after the 2000 census. Due to changes in county population, a subcommittee was formed to adjust legal boundaries for electoral districts. Four different plans were forwarded from a subcommittee for public hearing and the process was flowing smoothly when a plan that later became the infamous “Plan 5” surfaced without having gone through the subcommittee. Supervisors from Districts 2 and 3 believed that the maps were drawn to divide their districts in such a way as to ensure that their reelection would be more difficult and would split up areas that were important to them personally. These Supervisors made public accusations of violations of the Brown Act in that “the boys” all seemed to be well aware of the controversial plan when it was introduced out of the blue.

In interviews in February of this year, the Supervisor from District 5 stated that he believed that the Brown Act was an onerous burden that local politicians, unlike state and federal elected officials, must endure. He also stated that the “Plan 5” episode had been long forgotten and had no lasting impact on Butte County. The Registrar of Voters stated in interviews that the plan might have been viable had it come through normal subcommittee channels. A lawsuit ensued when the triumvirate tried to force the use of the Plan 5 boundaries for the March 2002 election. A successful referendum had placed the validity of Plan 5 on the same March ballot, which had the effect of suspending Plan 5 by operation of law. The lawsuit failed, and the 2002/03 Grand Jury attempted to quantify the costs of this maneuvering and rebuked the Board of Supervisors for attempting to hide the costs to the taxpayers. The Registrar of Voters said that she tabulated the costs to the county’s general fund at the time at \$230,000.

We do not believe that the final price tag for Plan 5 has yet been tabulated. Allegations and insinuations over alleged Brown Act violations remain open wounds, mistrust between county officials, employees, and the Board likely will not fade for quite some time. During this investigation, we came to believe that DDS has born the brunt of this mistrust. According to the Supervisor from District 2, the GIS manager took responsibility for the production of the map for Plan 5 that mysteriously appeared. However, we interviewed a former Butte County Planner, who testified under oath, that as a courtesy to the Supervisor from District 5 he met the Supervisor in Chico, collected a computer disk, and printed the Plan 5 map on Development Services equipment before business hours and later delivered it to him in Chico.

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He also stated that he had no idea how the map would be used, but he was clearly tarnished with the department and later let go. The Grand Jury was led to believe that managers tried to work with him to repair his "corrupt" image or ways, but eventually he was put on paid administrative leave for approximately four and a half months for what he claimed was a violation of a "no gifts" policy; his claim is that he accepted approximately \$40.00 on a gift card as a farewell gift as he was leaving the Chico Planning Commission and that the gift had no bearing on his employment. The Planning Manager that left county employment in the fall of 2004 stated that he had done a great deal to try to work with the former Planner, but the documentation that led to the exit of the former Planner was much more substantial than this Planner led us to believe.

This Planner had worked for the county for approximately twenty years, working his way up from an entry-level "counter" position to the highest planning position of Principal Planner. He was later demoted one level down to Senior Planner before his probationary time as Principal Planner was completed. Other than that, it seems this employee was in good standing with the county up until Plan 5. However, after the months of administrative leave, the employee was terminated. The Grand Jury has reason to believe that the arbitration that ensued was costly to the taxpayer needlessly. The Memorandum of Understanding (**MOU**) with the union requires progressive discipline before termination, and progressive discipline had not happened over any significant period of time most likely due to laziness and/or inattentiveness of DDS directors and Planning managers.

There are many county officials that believe that the dismissed Planner was promised the Directorship of DDS as a result of his cooperation in the Plan 5 episode. We found it highly suspicious that a \$100,000 cash settlement was paid in exchange for an agreement that replaced the words "termination" with "resignation" in the Planner's personnel file, an agreement never to work for Butte County again, and a gag order. The Grand Jury was able to interview him under a clause of the agreement that requires his cooperation with state authorities with the participation of the Butte County District Attorney. This former Planner is currently self-employed as the owner of a contract Planning agency and shares office space with consulting services and engineers that are campaign donors to the Supervisor from District 4.

Customer Service?

After 2001, when the Butte County triumvirate began their reign, a drive for improved customer service by all Butte County employees began. The training was county wide, but a former CAO reported that the Supervisor from District 4 was clearly most troubled by DDS' performance in this arena. When the current director of DDS was hired, she was directed to essentially empty the department of all the troublesome employees that had for so long been "putting their feet up on the desk" and especially those that seemed to enjoy telling the customers "no." It is the belief of the Grand Jury that it has been the intention of some

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members of the Board to promote saying “yes” over consistent interpretation of adopted policy or enforcement of the UBC.

During testimony, the current director had a difficult time explaining this to us. She was clearly upset that Plans Examiners would not overlook a detail as minute as the gauge of steel used for a dryer vent. We learned later that the UBC is specific about heat transfer through walls. Plans Examiners testified that if the metal gauge was not written in, they would write it on the plans for them. Plans Examiners stated that if there were only minor omissions such as this, they would contact the customer by phone to tell them that their permit was issued provided that they understood the minor corrections. Building Inspectors would later check to make sure that those changes were made. Currently, in the absence of any Plans Examiners on staff at DDS, Butte County sends many building permits to an outside agency, Willdan.

Willdan is an engineering, planning, and financial management firm which serves the specific needs such as plan checking and inspections of cities, towns, counties, special districts, as well as state and federal agencies and coincidentally is a former employer of the current Director of DDS. Established in 1964, Willdan has offices throughout California, Arizona, and Nevada that serve more than 400 public sector clients. The Grand Jury was struck by the irony of reports of builders and staff that suggest that plans that are currently being outsourced to Willdan rarely get a phone call; usually Willdan sends a letter with corrections requested and the resubmitted plans are sent to the bottom of a stack. Many builders report that the performance of Willdan is satisfactory.

Many planning, building, and other county staff testified that they knew of, or had participated in, coaching applicants in how to mislabel a project or misrepresent an application to avoid having regulations or fees apply to projects as part of what we believe is the so-called customer service strategy or outright fear to say no to the applicant. A common example of misrepresentation that came up many times in testimony included calling metal warehouse type structures “storage” when they are clearly intended for retail uses such as auto repair.

Another very common misrepresentation is the agricultural exempt building. Butte County adopted ordinances intending to help agricultural businesses by not requiring use permits for agricultural support buildings, and not requiring building permits for storage such as barns unless the building will be located in a Federal Emergency Management Agency (**FEMA**) declared flood zone. According to testimony, there are many agricultural exempt buildings in the county that are miles from the nearest agriculture. The section of this report entitled **The Duck Club** details one developer’s battle to build a two-story clubhouse for his new hunting club. A Plans Examiner assured the developer that his application would sail through as an agricultural exempt “storage” facility in spite of the builder’s stated intended use of the facility on the building permit application and to the

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Grand Jury. The Grand Jury has come to the conclusion that this sort of “help” by county employees is what is supposed to be customer service.

Our greatest concern with this alleged behavior of mislabeling projects is that we believe that over the last few years there have been genuine efforts, more accurately a tremendous amount of time and taxpayer dollars, by the Butte County CAO and others to clean up what the CAO refers to as “the sins of the past.” A prime example of one of these sins is the approval of evaporative ponds for wastewater disposal. In 1987, the county adopted a resolution banning the use of evaporative ponds. The project that initially instigated the outcry against these ponds was denied approval for an evaporative pond, but in subsequent years, Planners and staff in Environmental Health continued to approve evaporative ponds. Some of the staff interviewed suggested that “institutional memory” was lost with regards to these, that there are no current policies and procedures manual that Planners or Environmental Health can refer to that would contain such a prohibition. Instead, Board of Supervisor resolutions are tucked into a filing cabinet in some dark recess of some corner of some room.

Other county staff testified that they knew of the resolution, but made their own legal interpretation of the resolution as only restricting the use of evaporative ponds to zones bordering urban areas or LAFCo defined “spheres of influence” where there may be an option to eventually connect to city sewer. Environmental Health Staff report that a Land Development engineer pulled up the Board resolution in 2004 and Environmental Health requested a legal opinion from County Counsel, who did not support staff’s legal interpretation of a limited ban. The CAO testified that he believed that staff had known about the resolution and had chosen to ignore it. Nonetheless, facilities that were approved by the county are operating legally (this is called “legally non-conforming”) with evaporative ponds; however, they do not have the same entitlement to build a simple structure on their property with a building permit that everyone else does. Instead, they must go through a lengthy and expensive planning process to obtain a use permit before even submitting an application for a building permit.

In an interview with an engineer from the Regional Water Quality Control Board (**RWQCB**), the state agency that oversees engineered septic solutions and regulates wastewater ponds, the engineer thought Butte County very silly for having this prohibition. The current technology supports sand and charcoal filtration of effluent so that the water that goes in to the ponds is nearly drinking quality. To the Grand Jury, this argument is merely interesting; what really interests us is how the county handles its own policies. If the established track record holds true, it will be several years before any public hearings are held on this issue and a decision is made; landowners that are legally non-conforming will simply have to wait and suffer the financial consequence unless the owner can get the attention of a sympathetic Supervisor or a fearful staff member. Testimony suggests that due to the erratic work of development related

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departments in the past, there are hundreds or possibly thousands of legally non-conforming structures in the county.

Additionally, the county has spent hundreds of thousands of dollars for studies to try to assess correct and legally defensible fees to charge applicants when they request permits and “nexus” studies to justify “impact” fees to pay for needed services that are generated by growth as the development happens. Historically, the General Fund of Butte County, replenished primarily by property taxes, has paid for both existing services and those costs associated with growth. This has resulted in taxpayers subsidizing the regulatory costs and service costs of population growth. When land use laws are abused, and buildings are mislabeled, with or without the knowledge of county staff, it is the taxpayer that pays the costs. Testimony suggests that code enforcement has historically been a very low priority in the county; DDS staff report that if the county’s Assessor’s office discovers this type of fraud, they are likely to adjust the tax rolls for the future without notifying the Building Department or Code Enforcement.

Lousy Service Meets High Fees: A Legally Defensible Nexus?

In October of 2003, the county received the results of a developer fee study done by Maximus, a widely respected national consulting firm. The intention of the study was to determine if the services provided by Development Services were priced in a legally defensible way. Nexus studies are very popular in government these days due to the fact that the judiciary tends to uphold the validity of the concept as they are considered to be the “best evidence” of the reasonableness of the fees charged. Typically, in a nexus study, an independent agent will try to establish two different sets of criteria to establish fee levels. The first is to look at all of the services that are provided by a department and evaluate each one separately to determine a legally justifiable benefit to the general public versus benefit to the individual. For example, the Butte County General Plan is considered to be a “public benefit” document that should not be paid for by developer fees, use of many parks and recreational facilities is considered to be individual benefit while the overall maintenance of the facilities is considered to have some public benefit, therefore the costs are shared between public funds and “user” fees. Individual projects such as subdivisions or buildings, in this study, were considered to be 100% individual benefit.

It is the belief of the Grand Jury that the commissioning of the developer fee study, and a subsequent study that established costs to the county for the impact of new residential and commercial development to county services and infrastructure is a genuine effort intended to begin to change the county direction in such a way that limited general fund revenues will no longer subsidize development. The plan is for Butte County, while uncertain how to fund its current deficit in infrastructure planning/deployment, is to go forward in the future on a road that will not compound the current near insolvency of the county. It is

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important to note that impact fees generated by new development are specifically prohibited from being used for needs of older, established neighborhoods.

Records indicate that there have been two developer fee increases in the recent past, after 11 years with no change in fees. The most recent fee increase adopted an 80% developer fee 20% taxpayer subsidy. We learned through testimony that there were several reasons for the 20% public subsidy of permit applications. The CAO stated that this was the second large fee increase for developers in a short amount of time, and there was a concern that processes in DDS were so inefficient and broken, during the study period, that the data set used to compare costs and services provided could be skewed. The time studies were done in the 2002/03 fiscal years when we believe that much of the time and energy of DDS staff were spent trying to survive an increasingly hostile climate. During this time, a new director was installed after approximately eighteen months with two interim directors. Also, the county had recently replaced its CAO twice and was attempting to recover from the controversies of redistricting. Residential impact fees have been adopted as suggested by the Maximus study, but to our knowledge, there still has not been a vote on commercial impact fees. Some of the builders we surveyed suggested that they are angry about the new fee structure for both permits and impact. Others suggested that they didn't mind and will pass the costs on to their customers provided that they can plan their schedules based on the expectations of reasonably predictable service and approval criteria.

The county maintains some interesting funding mechanisms that have been the subject of previous Grand Jury investigations, and could be in the future. Costs associated with support by many county departments and employees, such as County Counsel (approximately \$131,600 last year billed to DDS) and the Auditors office (payroll processing), are passed back to the departments requiring their services. Additionally, DDS is billed for cash settlements such as the \$100,000 settlement to the former Planner, investigative costs for personnel actions, ongoing contractually required health benefits for a terminated director, etc. We learned that DDS is responsible for the maintenance of a landscape contract for a large easement north of Chico that a Planner put on a map as a requirement for a subdivision, and someone else failed to provide an ongoing funding mechanism. These costs appear to be folded in to the total cost of operating DDS, and may well have been used in the calculations for the nexus fee study. From our point of view some of these costs fall into funding categories that are neither "public" nor "individual" benefit. The costs for legal services have been climbing steadily every year for the last few years as the department continues to disintegrate, especially with regards to land use decision making, and as personnel actions continue to become more expensive.

The Grand Jury was astonished to learn that a manager in the Building Division was kept on paid administrative leave by the director of DDS for ten and a half months (at a low estimate of \$75,000 in wages and benefits) while an investigation was held; the department paid \$3,731.25 for investigative services

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between April and August of 2004. It is clearly outrageous that it took over eight months after the investigation was completed to bring him back into the workforce. The investigation covered a list of complaints; each of the charges could have been used as part of progressive discipline if proven. Besides this one report, the employee appears to have had a remarkable career with the county. During the time of this administrative leave, simple permits such as swimming pools that had previously been processed in one day were taking over a month to process, and now that he has been assigned to checking plans, many simple permits are processed in just a few days. This employee and other staff believe that the Chief Building Inspector, the Manager of Program and Resource Development, the Director and her assistant are all under orders to single him out for progressive discipline at every opportunity going forward. This employee has retained an attorney; the Grand Jury can logically predict the county's cash registers will be ringing again in the not too distant future should the employee's assessment be correct that he is being targeted. Should this waste be billed to the developer or should they be paid for with limited property taxes?

It may be possible to justify these types of expenses if the county is cleaning up "the sins of the past" and laying the groundwork for an efficient and policy driven system going forward. What has troubled us, besides approval criteria, is looking at projections for next year's budget and this year's cost recovery efforts. The Board has approved a policy of 80% cost recovery for the department. However, as of the end of March of this year, the 2005/06 budget projections were that DDS, in spite of the fee hikes and revenues from the AVA program provided by \$1.00 from every vehicle registration fee in the county, would require a 45% general fund subsidy before any money was approved for outside plan check.

Building permits range greatly in their complexity from simple gas line or water heater changes or a new roof, to a new single or multifamily home, or commercial clubhouse or restaurant. As of February 2005, the county's last Plans Examiner left his employment with the County (the total salary savings for the County at that point was \$280,000 and the plan check contract with Willdan was approved for \$300,000) and projects of any complexity were being sent to the outside plan check agency. The outsourced agency checks Butte County's plans at a cost of 70% of the fees collected, leaving 10% of the developer fees to help pay for the permit center, administrative and clerical overhead, and "county costs." Simple permits appear to be priced at a flat, estimated rate of time required multiplied by \$110/ hour.

Building Inspection services are also priced at \$110/ per hour applied by flat rate to the type of structure as defined by UBC occupancy. Building inspectors are working so fast, due to short staffing, that most interviewed felt they were not doing a comprehensive review. The hourly billings are set at a flat rate determined as a result of the Maximus study. In Planning, the hourly rate is \$137.50. During the fee study Maximus calculated that the Planning Department cost approximately \$950,000 per year to operate and should have collected slightly over \$400,000 at the time. At the end of the study, the consultants

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discovered that in fact only \$198,000 had been collected. This year, nine months into the fiscal year, reports indicate that Planning had only collected less than half of their financial targets reportedly due to considering many facets of projects as “public benefit research” and “customer service.”

With new developer fees and residential impact fees in place, the fee calculations for many permits are so complex that many permit fees have to be adjusted in process or refunds have to be issued. The accounting system at DDS uses a combination of systems that included permit center software called Permits Plus, Quick Books, an internal Microsoft Access database, and a financial system maintained by the auditor- a single simple refund is time intensive and complicated. Additionally, customers are frequently told that they have underpaid their permit fees. The department seems to have continuous cash flow problems; we learned that a very old \$10,000 microfilm printer that DDS and Public Works shared had been broken for months. While Public Works had replaced that need with a new digital storage system, DDS could not afford their portion of the cost to share that upgrade. As a result, documents that normally would be scanned to microfilm were filling up storage bins in the mean time, and DDS employees were clearly frustrated by the inconvenience of not being able to print plans already on film. The fee schedule that causes so much grief can be supported entirely by a programming script in Permits Plus. The director reports that the fees have been changing so much that the department had intended to wait until the fees stabilize, but at this point plans on going ahead with the programming even if it has to be done again in the near future. DDS does not currently bill other departments for the collection of their developer fees or impact fees and the support costs that go with it.

Smoke and Mirrors

As stated earlier in the report, in 1993 under a plan approved by the Board of Supervisors, the Department of Development Services was born of several departments to be a “one stop shop” for all matters development related. The plan failed fairly quickly, however, when it was discovered that California state law would not allow all facets of the development process to merge into the department. By 1998, DDS was a smaller department comprised of Building, Planning, GIS, and administration, and will be even smaller in July of this year as GIS departs. The Grand Jury did not evaluate GIS as part of our study, except to discuss with non-GIS witnesses the damage done to the reputations of Planning and GIS departments during redistricting.

As previously discussed, there has been a tremendous amount of attrition of employees in Development Services. During our term we do not believe that any division was fully staffed or remained fully staffed for the year (except GIS), and many staff we interviewed were actively looking for other work. Of the 65 witnesses we interviewed during the course of this investigation, 22 were current or former employees. Excluding GIS, DDS would be fully staffed with 41 employees and as of April of this year, there were approximately 14 vacancies. We understand some vacancies have filled since then, and some have opened.

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Interviews with staff reveal that some like their jobs, some like their jobs but not the stress levels, many staff work with varying degrees of dread about what new drama will unfold that day. Those who said they liked their jobs often said they enjoy a sense of satisfaction of working for the public. The employees that had been there the longest felt that they could outlast any new director or directive as they had seen so many come and go in the past.

When the new director came in and assumed her position, she had competed against only two other candidates, both of them local. One was the senior Planner that received the cash settlement this year, whom some allege was promised the directorship in exchange for his help with redistricting, the other was a former DDS Planner, now an employee of LAFCo, who had not made friends with some of the county Supervisors. We learned through testimony that professional organizations such as California Building Officials have long jeered at Butte County employees; Butte County has a reputation as an unfortunate place to be employed as a professional Building Official or Planner. This reputation does not help the county in our recruitment of high caliber professionals, and the last few years have only served to reinforce that reputation. We learned that due to understaffing, some members of the Building Division are in danger of losing their professional licenses; they stated they have been denied approval for leave time for required continuing education credits.

The current director likes to take credit for the ending of the Development Review Committee and replacing it with the Inter Department Review (IDR). This effectively ended a time when staff that worked on projects also acted as a public policy hearing body for land use projects; they could not discuss projects amongst themselves as the forum was governed by the public hearing restrictions of the Brown Act. Many projects would reportedly come to hearing in a sloppy and incomplete manner, only to learn at the public hearing what other staff members had not yet done. The IDR is an informal group of staff of various departments that are supposed to look at land use applications within the first thirty days of application to determine if there is enough information available in the application for all involved departments (Public Works, Environmental Health, CDF, etc.) to go forward. California law requires the thirty-day time frame; testimony suggests that Butte County traditionally has not met or ignored this timeline. While IDR has helped meet this time line more often, Planners report that frequently projects make it to this committee too close to the deadline; Planners are so overloaded with projects they can't get anything ready within the thirty days. The Grand Jury is also concerned that this committee, while reportedly only there to determine if a project has enough supporting documentation to be ruled complete for processing, still lacks enough properly documented standards to make a determination. There is no appeals process for rejection at IDR, nor does the public become aware of a proposed project through this review process, as public notices are not required.

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Much of the information needed for a Planner to make a decision is not readily available to the Planner or a property owner. Many of the complaints that we heard this year from county residents, and most cities and towns, were along the lines of: "the title company didn't tell me I couldn't do that" or "the General Plan says I can". The Butte County General Plan may note a parcel is zoned to be divided into a maximum of 5-acre parcels for residential housing, but deep in the bowels of GIS there may also be a map that is supposed to override the General Plan. An example is restrictions for forty-acre parcels due to Fish and Wildlife designations that protect land for deer migration or other environmental sensitivities. The current director does not believe that the General Plan is the correct place for detailed map conditions that restrict zoned uses, and we agree that she may be right with the caveat that the General Plan must be kept up to date to remove such misleading information. We heard one story where a couple bought a piece of property with a mobile home on it; when they tried to replace the mobile home a county employee discovered that they did not have a legal easement for access to the property.

These types of issues have upset the Board of Supervisors, the public, and professionals within the development community more than any others. The county is just beginning an electronic system that will be readily accessible that will show GIS maps; we do not know when information about legal parcels and map conditions will be available. It seems that funding and staffing are slowing these projects down. A professional and experienced Planner or project manager can find needed information, but the current system seems prone to error as you must be sure to check all map layers related to a parcel as well as previous use permits to be sure that conditions of a use permit were correctly recorded on a map.

The current director faced all of these challenges and more when she started; it is our impression that in these avenues she has performed with a super human zeal with an approval rating that is polarized. Her supervisors, builders, developers, and the public all seem divided. While plowing through issues with attempting to bring the county into legal compliance with CEQA and the Williamson act, she has been filling in as Chief Building Official, acting as Planning Manager, going in to the field to do building inspections as needed, checking plans for simple structures after hours, and reportedly staying late on Christmas Eve to paint during one of the remodels. It seems impossible to us for the board or the CAO to effectively evaluate her performance as director when she was wearing so many hats within the department and responding to so many emergencies, but for us, her choices to do so also raised serious questions.

Early in our investigation, before we met the staff of DDS, we were ready to write a report asking the development community and the public to give DDS some breathing room. We later understood the breadth of the "mistakes" being made by managers, and the rashness of new policies that are presumably generated by lack of staff and stress levels. Many staff, when interviewed, complained that

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Standard Operating Procedures they had used for decades had been ruled obsolete. Rulings in this manual by previous Chief Building Officials were typically more lenient on enforcement of the UBC than state law required. From our point of view, as well as the point of view of the Executive Director of the Butte County Employees Association (**BCEA**), as long as the new policies are documented and clear, Butte County has the right to expect performance from its employees. From review of public documents and testimony, however, we learned that in reaction to particular errors or situations, the director might issue a new policy by email without consulting affected departments.

A particular situation that we became aware of was the result of an error related to a "will serve" letter; the letter stated that sewer service could be provided to a new building if LAFCo approved annexation- this was misread to say sewer service would be provided. In response to the error, the director issued a memo via email to "all interested parties" that affected the way Environmental Health and LAFCo handled their parts of the process without consultation. We believe that this policy issue has been sorted out, but tempers flared and needless drama was created for months.

Employees interviewed stated that they were asked to go lighter on building codes and increase volume, but were never told which ones to ignore. Some said that they felt that ignoring building codes was a trap to be used for discipline later. They felt that their careers were jeopardized by unspoken and unwritten policies that fluctuated with the level of crisis in the department. We came to realize that this director was handed an impossible job of tearing down and rebuilding the department simultaneously with the mandate to say "yes" much more often and not to use laws, regulations, and policies to control growth in the county. She was asked to be the head of a development super agency that clearly is not a super agency, and it was never intended for her to succeed. This director is being asked to direct a General Plan update when much of the regulation that affects the policy document is not under the jurisdiction of her department.

The CAO has helped DDS in many regards, encouraging a deputy from his office, and who is also assigned to other departments related to development, to attend every meeting and act as a facilitator to encourage communication and cooperation between departments. The Grand Jury felt that, when the director explained to us that her department was not truly a super agency that the explanation of inefficiencies in other departments was probably "smoke and mirrors". The deputy to the CAO reported that development related departments were mostly "hungry for communication" and the coordination between departments was helping. We came to believe that most of the problems in all county departments related to development are related to the negative influences of a politically charged environment and staff operating in a "self protection" mode.

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Environmental Health has issues retaining employees due to low salaries. At the time of this writing, Environmental Health only has 7 of 16 positions filled for the review of plans. Public Works Land Development Division has been given more responsibility in recent years and there have been unverified complaints that this division has been slow to accept and adopt new responsibilities. Environmental Health solved some problems by pursuing a 15% "recruitment and retention" salary increase for some positions, but the CAO is adamant that is not needed in DDS. A county wide salary survey is underway that he believes will reveal if insufficient pay in the Building Division is a factor in sustained tolerance of the work environment.

Policy through Remodel

The current director of Development Services believes that the current physical plant that is shared by Public Works, Development Services, and a small satellite facility operated by Environmental Health is not a sufficient facility for operation of a true "super agency", and we agree. Most Environmental Health staffing are housed out of Chico, with some staff located in an additional office in Oroville. Public Works and DDS are both growing organizations, some of the personnel issues in DDS are undoubtedly related to the very close quarters in which staff work. Satellite facilities pose a large challenge to all of these organizations due in part to physical access to the myriad of forms and documents needed for evaluation of projects. Very little project data is available in electronic form and we estimate the department is several years behind in utilization and customization of software they already own.

DDS Staff report that their work place has been remodeled six times this decade. The Grand Jury observed two different phases of the most recent remodels, we were very concerned the ability of staff to work in the conditions generated. Filing cabinets and papers were strewn about and staff was working off of the floor. Complaints from the public that we heard included accusations that staff was losing important documents. The complaints stated that when builders came in for a permit their records, such as master plans, could not be located, resulting in weeks of delay on projects. The conditions that we found during our visits and the massive number of plans that were not currently being put on microfilm suggested no reason to doubt the complaints. However, the office now looks much better; the new permit center is touted as a success that has reduced wait time in the lobbies and includes a help desk that is devoted to answering simple questions.

Not every staff member is thrilled with the recent remodels or the new permit center, however. The new lobby of Development Services has put staff members in very close proximity to members of the public that are sometimes belligerent when told "no" on a project or involved in a dispute over code enforcement; some staff would like the buffer of the counter back. Additionally, the rear work areas of DDS, where masses of current and historical public

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records are located, are easily accessible via multiple open archways that would be virtually impossible to seal in the event of a security incident. Drafting tables were taken away from staff without notice, though some have been returned upon request. Clerical staff that type minutes of meetings from recordings report that they have been situated in cubicles near busy exits and traffic ways where their ability to transcribe has been severely undermined by noise generated by foot traffic.

The only visible restructuring of processes that were part of the remodel that we could detect was in the functioning of the clerical staff and the permit center. We did not have a context by which to compare the working conditions of Building Inspectors and Code Enforcement before the remodels, the subject was not brought up in interviews with either group. Clerical Staff, in the past, were assigned to particular divisions. The newly reinvented agency has a clerical pool that is supervised by the Manager of Program Resource and Development that has been working to cross train staff to be able to support any department. The Planning Division reports that the lack of expertise of some staff in the rotation, and the need to request support for projects (clerical is no longer assigned to Senior and Principal Planners as their managers) slows projects and gives the clerical manager the ability to manipulate and harass Planners.

County employees report that this manager, the current Chief Building Inspector, and the assistant to the director are essentially the "pit bulls" of the department. Testimony states that they attempt to push "non-favored" employees into behaviors that can be used later as progressive discipline; that the director is in meetings a great deal of the time and trusts these three to "keep things together" when she is away. Evidence suggests that the work climate disintegrates when the director is gone, and the clerical manager occupies herself meddling in the affairs of the other divisions. One anecdote we heard was an overheard conversation discussing the medical condition of an employee in-law. It is believed that this manager discovered that the MOU with the union did not include language for medical leave time for in-laws, she was heard "laughing and giggling" with the director's assistant discussing arranging denial of requested vacation time or sick leave and preventing this employee from helping with his family during this crisis. Additionally, this manager was prohibited from supervising one of her clerical staff members due to a grievance he filed against her for reportedly "insulting his manhood" in a comment we believe was intended to express her frustrations with the staff member's ongoing health issues. During an interview with the Grand Jury, this manager went on at length about frustration with staff in her unit and in others; she repeatedly referred to them as unprofessional "children" that needed oversight for matters as simple as composing emails.

The Planning Department lost a Senior Planner this April when he accepted a demotion/lower paying position with the City of Chico. Currently, DDS is attempting to recruit a Planning Manager. A consultant is currently marginally

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filling the Planning Manager position. We did not meet this consultant, but planning staff seems to respect his expertise but are clearly frustrated by his lack of availability. The Director of DDS steps in at times to make Planning decisions when Planners do not feel qualified to do so themselves. Planning staff relies heavily on legal counsel, as there seems to be a vacuum in decision-making and a lack of understanding as to legally viable approval criteria. The previous Planning Manager stated in an interview that he felt the project loads were too high for Butte County Planners (the current director stated that after the Senior Planner left, project loads went to 60 projects when they should be at 15), but that he had been content working for the county and felt that the Planning Division had potential. He was very supportive of the current director's direction and policies, stating that he had liked working for the county and would have liked to stay if his wife had found a job suited to her education. It seemed odd to us that the current director testified that she had told the Planning Manager that he should find employment elsewhere, and that she was warning him ahead of time as a courtesy for him having moved to Butte County to accept his position. This manager left the county several weeks after a meeting with a member of the Board of Supervisors that will be detailed in the section, **The Duck Club**.

Code Enforcement seems to be a controversial and political topic in itself; one member of the board reported having high hopes for this division in her work in revitalization of Chapmantown. However, this Grand Jury attempted to only evaluate working conditions of the staff in the context of the restructure/remodel and believes that a future Grand Jury should do a thorough review of the effectiveness of the county's programs. We did learn that the current director believes that code enforcement functions are not a good fit for her department. She stated the AVA funds generated through vehicle registrations do not offset the security risks that come with code enforcement; she believes code enforcement is more of a law enforcement function than a building function. Members of the board questioned about this did not agree, nor did the code enforcement officers interviewed. The AVA function deals with vehicles abandoned in neighborhoods; the California Highway Patrol (**CHP**) and local law enforcement still carry the responsibility of abandoned vehicles on major highways and roads.

We learned that Code Enforcement officers, for safety reasons, have requested uniforms that allow the public to recognize them from a distance. When Code Enforcement officers asked the current director about getting uniforms, there was no response at first. When they repeated their request several months later, the director reportedly told the officers that there were issues with the union allowing uniforms for some staff but not for others. In an interview, the BCEA Executive Director stated he had no knowledge of the request. The BCEA union steward that works in Public Works said that he had not been consulted by the director, but could not imagine any issues with allowing uniforms as some, but not all, Public Works employees wear uniforms as part of their jobs. Code Enforcement officers did not pursue the issue any further; they stated that they were in a

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position of a battle they did not feel they needed. Other than this, the department seemed to operate in a self contained way that coordinates effectively with law enforcement in dealing with issues such as methamphetamine labs and abandoned buildings being occupied by vagrants outside of Code Enforcement's normal 8-5, M-F working hours.

The Building Division has been the most affected by the restructure/remodel of the department. The current director started her career in building and worked her way up through the ranks holding nearly every job function within that division except Code Enforcement. The Grand Jury believes that with that expertise come high expectations of staff and a tightly managed, top down style, in spite of the policy language that speaks to a "team" model. Many of the staff that complained of micromanagement had been targeted by the board as "unfriendly" or "unprofessional" staff before the new director came in. In February of 2005, the Director of DDS reported that of the 45 people on her staff 16 had left during her tenure- there were 3 terminations, 7 resignations, and 6 retirements. Four separate witnesses testified that they believe that the Director of DDS and her trusted managers maintain a "blacklist" of employees that they will try to drive from the department by "making their lives miserable."

The current director of DDS is acting as Chief Building Official (**CBO**), the previous CBO "retired" and now works for Willdan. DDS staff report that acting as the CBO, the Director of DDS "threw away the book" of standards and issues proclamations through email in response to issues as they arise. A manager of a related department reported that Development Services employees are afraid to talk with anyone. One witness reported that the Director of DDS reported to staff in a meeting that the Grand Jury was investigating to "help her clean up her department." A former Director of DDS stated "it was tough to get DDS employees to have the right attitude when they are constantly overridden by the Board." In the vacuum of standards and support, no one wants to take responsibility for a decision. Many witnesses recounted that the most common policy/performance directive from managers was "to get with the program." Union stewards report that as of five years ago, there were no grievances from DDS but now report spending 90% of their efforts working with DDS related problems.

The Grand Jury interviewed five former Plans Examiners as part of our interviews; the county has no Plans Examiners on staff at the time of this writing. A contracted company is reviewing complex plans; the Plan Check Engineer, the Supervising Building Inspector that recently returned from administrative leave, is reviewing simple ones and the Chief Building Inspector and Director fill in as needed. One of the Plans Examiners interviewed left in 2002 to accept a job with the state, one left in 2005 because of a serious illness, two accepted early retirement in 2004 as part of a county approved early retirement program that was designed to reduce payrolls due to the county's current fiscal crisis, and one resigned in 2004 due to what he described as a hostile environment due to being

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targeted for termination. The four Plans Examiners that left after 2002 all felt that the environment was hostile and unbearable to varying degrees. The Supervisor from district 5 went on record essentially stating that early retirement allowed Plans Examiners to “get out while the getting is good.”

These employees recalled incidents when the managing Chief Building Inspector or the director criticized them for compulsiveness for their adherence to building codes; requests for written documentation on which codes to ignore went unanswered. Many of the professionals in this division testified that there are many structures in Butte County that have been built in the recent past that are not safe by the standards of the UBC and that they would never live in some of the homes that are being built. In an interview with the Supervisor from District 1, who has a building background, he laughed about this and said, “You don’t see buildings in Butte County falling down.” In the past 10 years there have been major updates to the UBC and FEMA laws. In the mid 1990’s, a sequence of hurricanes in Florida, earthquakes in California, and floods and tornados in the Midwest caused so many billions of dollars of property damage that insurance companies essentially demanded that building codes be updated to accommodate the typical worst natural disaster that is likely to happen in a 100 year period. The Grand Jury has surmised that if a natural disaster does occur in Butte County we will know immediately which builders are not following the code and have not had the requisite peer review. It is our understanding that the County is not legally liable for the quality of the peer review as part of the plan check or inspection process, but legal analysis suggests that it would be liable if it is true that the county is knowingly approving unsafe structures or has deliberately adopted a policy of ignoring inconvenient or expensive codes as alleged.

It is the belief of many county Supervisors, the CAO, and other involved officials that managers in that department have been lax and inconsistent over the years of documenting inappropriate behavior. It is believed when the current building boom came on us in 1998, the department began to disintegrate when a team of “characters” behaved badly in an environment where employees were expected to actually perform. These officials have used arguments of legal and limited liability for the county as a weapon against those that wish to do their jobs professionally. Some builders made remarks in customer comment cards and in complaints that they wanted certain Plans Examiners or Inspectors to check their projects, reports indicate that certain Plans Examiners would become hostile if criticized about their attention to detail. Some of the employees acted inappropriately as the result of criticism. Most of these employees had lengthy careers with the county; these types of complaints were uncommon until the current director took charge.

Terminations were nearly impossible because there was no supporting documentation of bad behavior over long careers, instead complimentary performance reviews. The BCEA would support employees in grievance

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procedures if there was discipline, but many of the staff in this department lost trust in the BCEA Executive Director when he was repeatedly seen talking and laughing with the director of DDS and having meetings with her behind closed doors.

During our investigation, we came to believe that the majority of Butte County Supervisors believe that government regulation is a hindrance to development and that it is their duty to help their constituents overcome the process. We were unable to establish if the current Director of DDS encouraged her top managers to engage in manipulative behaviors, or if their actions were a result of their own frustrations and personalities. The current Chief Building Inspector is reportedly in process of being installed as the Chief Building Official, which has code defined responsibilities and authorities; sources indicate that the department recently announced a one week internal recruitment for the position with only two people remotely qualified: the person that just came back from administrative leave and the Chief Building Inspector. Sources, in the department, report that the Chief Building Inspector does not have all of the certifications required. These sources report that many of his previous certifications have expired due to a lack of continuing education, and that he is being approved to attend trainings when others cannot go. The same sources indicate that they believe that the recruitment process was used to install this person as a reward for his loyalty to the current director.

We received a copy of an email sent from the Chief Building Inspector asking the Plan Check Engineer, who manages the Plans Examiners, to "email me all documentation of" (name omitted) "time off that you have. I need what you already gave me, and whatever else you have so that I can manipulate it. Please keep this totally confidential." The email was labeled as confidential in the sensitivity field, and the Plan Check Engineer said that he complied with hesitation and printed a copy of this email for his records. He testified that he believes that the employee referenced in the message found his printed copy, made a copy, and released it to us months later. The Chief Building Inspector, when asked about this communication did not deny that he sent the message, but rather explained it as an effort to compare his time sheets with that of other Plans Examiners in Microsoft Excel. Additionally, the Chief Building Inspector reportedly boasts that he built his own house on county time. During a Grand Jury interview with the current Director of DDS, she reported that the Chief Building Inspector reported this was true, but had done so many years ago when the department had much less volume and was more loosely run.

The Building Inspectors have had their share of problems; they are accused of giving preferential treatment to some builders and having "go to" staff that will overlook problems for particular people. In interviews, many of the staff were very concerned about not having enough time at each inspection to do a complete review due to short staffing. Recent hires this spring made this department fully staffed, except the Supervising Building Inspector has

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maintained his title while he performs the duties of a Plans Examiner because of disciplinary action. This department has been affected heavily by the top down style of management; they have been told to destroy their previous operating procedures and to “get with the program” with regard to the new policies which appear to be created as the result of crisis within the department. Staff meetings occur weekly, but “team” meetings that help develop standards between inspectors have not happened in over two years.

The permit center has taken a hit as part of this remodel; we were told that many of the staff do not have adequate training or background to ensure that permits that are accepted are complete or that the fees are calculated correctly. Understaffing has contributed to errors and low morale as well; staff in the permit center is in the front lines of customer interactions and are charged with answering telephone calls regarding permits that are in the system. Statistical analysis performed by the Grand Jury this spring shows that as of the spring of this year, permit turn around times were at the slowest since 2002 (we did not have data before 2002) and that simple permits that used to be issued in one day were taking 21 business days, more than a month in real days. This analysis suggested that businesses of the same type received approximately equal treatment with regards to approval time, but more complex projects such as commercial or agricultural projects have so many variables in them that it is difficult to explain the longer turn around times.

The permit center has not been able keep up with answering phones. Besides being understaffed, each member of the permit center has a different incoming line. When a call is transferred to the center, the operator appears to have to guess which staff member is free or has space to store additional voice mails. Each voice mailbox is only capable of storing fifteen messages and is frequently checked only at the end of the day. Staff reports that they are not allowed to earn overtime to catch up on calls. Many of the voice mails are the same contractor calling over and over again, asking for different staff, trying to find someone that will answer their phone. Permit Center employees report it is typical to be two weeks behind on returning phone calls. We heard testimony that the Chief Building Inspector does not return his calls, and encourages Plans Examiners (when there are any on staff) not to use the phone. A Plans Examiner reported that the Chief Building Inspector ordered a phone without a ringer for the Plan Check Engineer when he was not compliant with this policy and was trying to call applicants to solve problems.

The stated intention of the reorganization of the department was to sweep out a “good old boy” network that allowed some builders to get preferential treatment from staff, to streamline the permit process, and to provide customer service. Staff from both DDS and Environmental Health has reported that cleaning out this system has created a system by which projects promoted by members of the Board of Supervisors that support the current Director of DDS gets preferential treatment. When a “favorable” member of the Board of Supervisors contacts the

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Director of DDS about a project, staff are instructed by this director or Chief Building Inspector to drop everything.

The Grand Jury reviewed more than twenty assessor parcel files that contained active projects, and writings available through public records of Board involvement in particular projects. One communication referred to a home owner that had lost her mobile home in a fire requesting help from a county Supervisor as she was apparently told that in order to replace her mobile home she would have to wait up to 12 weeks for an Environmental Health clearance, presumably to connect to the same well and septic, before she could apply for a building permit. Since that time, the department has developed a waiver process that will allow applicants to apply for Environmental Health clearances and building permits simultaneously, but at their own peril. If either plan requires significant changes, the fees paid would not apply to resubmitted plans.

Other projects that we became aware of were mostly commercial agricultural projects and residential projects in agricultural areas that reportedly were being driven through the process by brute force. Writings and testimony state that many members of the Board of Supervisors are in contact with the Director of DDS almost daily. The Supervisor from District 4 is in communication with the director of DDS or staff in Environmental Health the most frequently discussing various projects that are in the system.

From the documentation we reviewed and testimony, we believe that the typical response when staff believe that denying a project is the right thing to do is for the Supervisor of District 4 to demand a meeting with that staff member, the director, and the constituent. Staff report feeling very intimidated when they are aware that this Supervisor is interested in a project and that typically, the Chief Building Inspector or Director will inform them that this Supervisor is interested when being told to drop everything. As a result of our inquiry, two building permits that did not meet legal criteria for commercial agricultural projects that had been previously approved as a result of this type of pressure were suspended after construction had started and large concrete foundations had been poured. In the following example, construction started before a permit was issued and continued after the Director of DDS told us she intended to suspend the permit. A Building Inspector went to the site after the Director was clearly aware of legal issues with the use permit and issued a "stop work" order for an unrelated foundation problem.

The Duck Club

It is important to state that the suspension of these permits was not our intention. We interpreted the response as a "knee jerk" reaction to scrutiny. Our study was intended to understand the process and effectiveness of stated intentions to streamline the permit process and end favoritism to developers by standardizing employee performance and approval criteria. We are convinced that some

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county officials have been trying to implement policy that could lead to a consistent and fair system.

The first permit suspension that we are aware of is due to complex issues, staff report it was approved initially as the result of political pressure. On this project, the primary problem seemed to be that the foundation was constructed too close to the property line to be legal. In order for the new foundation to be used the company must have its neighbor agree to sell it land to have a lot line adjustment to legalize the structure as planned.

The second project was a complex one that included changes to the intended use of a site and site plan after the Planning Commission authorized a use permit for a duck-hunting club on 171 acres of a rice producing agricultural parcel in the Durham area. After reviewing testimony and records, the Grand Jury came to the conclusion that neither of these permit problems were mistakes by the Director of DDS, but rather approval as an appeasement of political pressure. We do not know if any legal action against Butte County will result from the behaviors of the District 4 Supervisor and the DDS department head in helping clear the way for initial issuance of this permits. In the case of the duck club, we are convinced from testimony of staff and extensive documentation that the developer, District 4 Supervisor, and Director of DDS were all aware of legal obstacles in the way of the project and moved ahead anyway.

One of the concepts that we learned about that may well come up as part of the upcoming General Plan update is to bring economic development to agricultural zones in the county by encouraging the coexistence of minimal impact type recreational use of agricultural lands. The Grand Jury supports public discussion of this type of policy making; we learned during the course of looking at this project that waterfowl hunting that operates out of hunting clubs is frequently an activity of affluent people from other parts of California and beyond. Some clubs have large full service clubhouses, helicopter landing pads, and can cost the guest as much as \$100,000 for a season of use. This particular project began in late June of 2002 with a request for a mobile home park of 28 spaces that would be added in two phases, with a 700 square foot utility building for electrical and water services and a cleaning area for ducks. The project was submitted by a rice farming family that owns as much as 3,000 acres in Butte and Glenn Counties; one of the owners is a congressional staffer to the congressman from California's Fourth Congressional District.

The terms of the use permit approved by the Planning Commission in October of 2002 was that one mobile home space was authorized for year around occupancy of a caretaker. The other spaces were to be used seasonally from one week before the start of waterfowl season to one week after and included restrictions on lighting to minimize light pollution in this agricultural zone. The ruling of the Planning Commission on the use permit was applicable to the entire 171-acre parcel. The permit report stated that the loss of 6.5 acres of agricultural

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production created a minimal impact to agriculture and declared a “mitigated negative declaration.” This authorized the project provided that the owner met the conditions stipulated in the permit. This project was approved with the use of an evaporative pond as a method of wastewater discharge. The entire 171-acre parcel is in a FEMA declared flood zone; experts believed that leach systems would not be appropriate due to high groundwater and poor drainage caused by high clay content in the soil that makes this land ideal for rice production.

In California, the State department of Housing and Community Development (HCD) typically regulate Mobile Home/RV parks. Local jurisdictions are allowed to regulate their own if needed, but Title 25 of California regulations is an onerous and expensive specialty that HCD manages for these parks as an expertise and at an apparently significant taxpayer “public benefit” subsidy. Between the time of the October 2002 ruling of the Planning Commission and July, 2003 when the final use permit was issued, this project needed preliminary approval from the California Regional Water Quality Control Board (**RWQCB**) for engineered plans for the wastewater evaporative pond. The owner had to negotiate with HCD the minimum lighting requirements that HCD requires for a licensed park versus the county’s requirement that lighting be minimized. The use permit that was issued in July of 2003 is valid for 24 months, and was taken through the Planning Commission by the former Planner that was recently awarded a \$100,000 settlement.

In June of 2004, however, the project resurfaced at DDS with a request for a “minor amendment” to the use permit to allow eight of the mobile home spaces close to the entrance of the park to be converted to cabins, including the caretaker’s residence. Testimony from a representative from HCD suggested that if the county approved the cabins, HCD would have to rescind the state license to operate as Title 25 of Californian Code of Regulations allows HCD oversight of mercantile facilities, such as park stores, and recreational facilities, such as clubhouses, but it is specifically prohibited from licensing single-family type dwellings. The developer then submitted the plans to Butte County instead. According to the IDR agenda report, the project engineer had not provided detail for fire flows for a pressurized water systems for CDF approval, Environmental Health said “no” to the wastewater pond, five of the cottages would require handicap access, and the property was not allowed to have permanent structures such as the cabins due to prohibitions against year around occupancy as stipulated by the use permit. County Counsel later issued an opinion, at the request of Environmental Health and agreeing with RWQCB, that converting three bedroom mobile homes to two bedroom cabins would likely reduce the amount of wastewater produced and not require alterations of the pond, and the new proposed use of the legally non-conforming ponds would be acceptable. To this day, none of the other issues with the cabins have been addressed, but County Counsel was asked for this opinion in December of 2004, five months after IDR rejected the cabins. Nowhere in the opinion request or in the Notice of Applicability (**NOA**) issued, as a permit to operate by RWQCB was any mention

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of the clubhouse that had been initially submitted and marked as a restaurant/storage.

A new Planner was assigned to this project when the project came before IDR in July 2004 due to the previous Planner's separation from the county. The letter attached to the IDR agenda from the engineer requesting the minor amendment suggested that construction was already 95 percent complete of the approved part of the park, and that on March 30, 2004 "we had a 'preliminary plan review' with the HCD representative" and that the result of that meeting was referral back to county for review, inspection, and approval of the building plans. What the letter does not say was that the developer had already proceeded to build his utility building in the location of the caretaker's residence as provided in the map of the approved use permit and that he was intending to build a clubhouse in the previously approved location of the utility building. In a later interview with the Director of DDS, she claimed to have never looked at the map, in spite of testimony from 3 current and former DDS employees that they discussed the map in depth with her. The engineer also omits from his letter that HCD cannot regulate the park if the cabins are built. The HCD representative stated that he had reviewed the preliminary plans for the 2000+ square foot, two story clubhouse and plans were rejected due to lack of handicap accessibility in the building, that the bathroom and second floor "crow's nest" had to be accessible. We believe HCD was never contacted again by the developer or his engineer about this clubhouse.

Approximately six weeks after IDR rejected the plans for the cottages, a building permit was submitted for the clubhouse with Butte County's DDS; the original handwriting on the permit calls the building "storage/clubhouse" with a description that appears to state "restaurant (1800) storage (180)" in the square footage field. The word clubhouse had been scratched out and the words "ag accessory building" were penned in, in what appears to be the handwriting of the Chief Building Inspector, and the original plans indicate storage at the base of the stairs leading to the second story crow's nest. Between July 14 and July 22 of 2004, the Plans Examiner mentioned earlier in this report that has since resigned (who happens to be a hunter, and was known as the "go to guy") looked at the plans and was reported to be ready to pass them through, in spite of the handicap accessibility problems, state jurisdiction, and what later Plans Examiners described as serious concerns about the safety of the building with regards to the foundation and the ability of the structure to withstand the proposed 133 person load.

On July 22, 2004, records indicate that the completed plan check went to Planning for final approval and that the Planning technicians had concerns about the proposed structures as being regulated by the use permit and not having been approved as part of that process. On August 12, 2004 a flurry of activity occurred; a fax from the engineer working with the developer time stamped 2:54 p.m. stated that the developer had been in the lobby trying to find out what was

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going on with, "his permit for his storage and club building." The engineer asserts that, "this is an accessory building allowed by zoning code and not part of the mobile home park." At 2:58 p.m. on the same day, according to the stamp on the email message, the assistant to the District 4 Supervisor asked the Planning Manager the status of the permit that is carbon copied to the director of DDS.

At 5:04 p.m. on the same day, the former Planning Manager responded with a bulleted list of inconsistencies, talking about inconsistencies in the plans for the proposed "storage building", including a "full commercial scale kitchen, a bar with a service sink and refrigerator, a 'Lounge Area' with a fireplace, a 'dining room' and a 'crow's nest'." He goes on to express concerns about intended use to signs indicating "Maximum Occupancy- 120 Persons", six rooms all finished in slate tile and an eight burner stove, dishwasher, and double refrigerators. He stated that the building was consistent with a restaurant or tavern and does not comply with the intent of the use permit. The message was addressed to the Director of DDS. At 5:27 p.m., the director responded to the Supervisor's assistant that she "concurred and would notify the applicant in writing today." The Grand Jury observed that the plans for this building called for 600 amp electrical service that was to connect to the main electrical service supplied to the mobile home park from the utility building, and that water service and sewer services would use the same well and evaporative pond.

The immediate response from the assistant to the District 4 Supervisor was to request a meeting between the District 4 Supervisor, former Planning Manager, DDS Director, and the constituent. On the morning of September 24, the District 4 Supervisor's assistant wrote asking for an update on this project and requesting an appointment to discuss yet another project's permit; the next business day sent an email, writing that the Supervisor "would like the courtesy of a response." Testimony of the former Planning Manager and the director of DDS suggests that when a member of the Board of Supervisors is interested in a project and a constituent is having this type of problem, that staff will do everything that they can do to help the constituent understand any applicable laws or available options, and try to find a way to make the project work for them. In this case, the project seemed poorly planned. The project engineer testified that the developer did not submit his request for a clubhouse or cottages at the time of his initial application for a use permit. We noticed he did not include the plans for the clubhouse during his request for a minor amendment to his use permit when he was denied the cottages.

The former Planning Manager testified that the developer would have been better served using an architect instead of a Civil Engineer (licensed P.E.) for this project, that he would likely have gotten better advice on the zoning laws, and that he believed the whole project was trying to be done the cheapest way possible. However, once the former Planning Manager had given his expert advice, it was his opinion that it was up to the Director of DDS to decide if she wished to approve the change to the use permit as "minor", as there is an

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assumption that the director has that code based right. Neither Special Counsel to the Grand Jury, nor the Director of DDS can locate a Butte County code that gives her that right; Special Counsel suggests that it is possible she neither has this right nor was the proposed allowance for this change “minor” due to the stated intended use of structure by the owner. Any language that might be construed to give her that right would likely be in conflict with Butte County Code section 24-45.45. The owner of the property stated that he had already accepted \$60,000 in payments for the 2004 hunting season and had to refund the money due to his inability to get a permit for the clubhouse before the season. The HCD permit to operate dated December 9, 2004, after the beginning of waterfowl season, stated that a compaction report must be obtained before any homes are occupied or connected to utilities.

On October 9, 2004, the director wrote a message to the District 4 Supervisor that she had approved a minor amendment to the use permit of another project for a lunchroom while requiring a new use permit for the relocation of a mining operation, and that she was working well with the developer of this project. She goes on to say that she was recommending to the developer to wait until after October 26, when it was possible that a public hearing on the use of evaporative ponds might relax the interpretation of the use of ponds so that Environmental Health could approve connecting the clubhouse to the state approved system; she reported meeting with a Program Manager in Environmental Health that morning, “were looking at all options for the constituent, but did not have firm answers for him.” Writings and testimony suggest the October 26 Board meeting resulted eventually in directing Environmental Health into commissioning studies to look at sustainable long term solutions for wastewater handling under various environmental conditions in the county; between October and January there were reportedly several contacts between this Supervisor and members of Environmental Health attempting to get this project moving again.

A manager in Environmental Health reported to the Grand Jury, under oath, that he was in the office of the Director of DDS when she was having a phone conversation with the constituent. He recalls hearing the Director of DDS instruct the constituent on “what to call the building” to get the project moving again. On January 19, a Program Manager in Environmental Health wrote the Director of DDS, with a copy to the manager that heard the phone conversation, asking for instructions to help the applicant get his project moving. He asked if he would need a use permit amendment to get a building permit, and if he would need a “pre-app” before he can apply for a needed use permit. On February 3, 2005, Environmental Health approved connection to the evaporative ponds for a building labeled as “an employee break building” and put an explicit instruction in the file that “this facility does not contain a commercial kitchen.”

With the required Environmental Health approval on file, the project moved back to be plan checked. No one has ever answered why this commercial building was not sent out of county to plan check at Willdan like all other commercial

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permits. The Plans Examiner that left due to illness filled out a Plan Revision form on Feb. 12th with a large note on it that states, "Assembly Occupancy/State Jurisdiction per" (name omitted) the HCD representative. On February 25, after the Plan Check Engineer was assigned to the project due to the illness of the previous Plan Examiner, the director wrote a message to the engineer, the Chief Building Inspector, and the Supervisor stating, "Apparently, there was some confusion about the" (name omitted) "agricultural support building adjacent to the mobile home park. The structure is outside the limitations of the mobile home park and is, therefore, under our jurisdiction. The" (name omitted, HCD) "concur. Please Plan check this ASAP and get it out to." (name omitted, the developer). The Butte County assigned HCD representative (a former Butte County Plans Examiner) testified under oath that he had communicated with a Plans Examiner that the clubhouse was indeed in his jurisdiction, if Butte County approved the plans the State would revoke the license to operate, and Butte County would assume the costs and oversight responsibilities of the trailer park (current practices suggest that these costs would be billed to DDS). The HCD representative testified that the Director of DDS had never contacted him about this. This director testified under oath that the developer had asserted this point and that she had taken his word for it.

The following Monday (the next business day), the Chief Building Inspector sent a "high" importance message, discussing another politically charged project that was being rushed through, stating that the department intended to issue plans before 4 p.m. for a project that was checked by Willdan and was a "mess". According to the message, "Willdan had approval stamped only the first of 40 pages and nowhere else" and also "delivered a 26 page plan check letter indicating mostly items involving incomplete plans. Someone was in a big hurry to get that out in all phases. Half baked..." Applicant "has delivered the remainder of the plans to Willdan without coming to us." With regards to the clubhouse, he writes to the effect that they are trying to plan check the building, and that a deed restriction would be required, but asks why. He asks about the kitchen with two stoves, two refrigerators, counters and bar, employee break area, meeting area and a second floor crows nest that is now labeled 'storage area'. He states, "no code analysis, no described use for the building. Do we have a description of what they are using the building for? It seems to me it would need to be accessible, and would be a commercial building." In the February 11, 2005 submission of clubhouse drawings, the second floor was indeed relabeled "storage", but text descriptions in details such as electrical service still contained references to the area as a crow's nest. On 3/02/05, the Chief Building Inspector put a "note to file" in the permit application that the "building permit application is for an agricultural employee accessory structure and will not be associated with the trailer park. HCD does not control ag accessory buildings. The building will be deed restricted to reflect that it is an accessory to ag operations only, no sleeping or commercial cooking allowed. Plan review shall include disabled access compliance..."

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In testimony, the Plan Check Engineer had extreme safety concerns about the building; the second floor included the intended use of 2X4 decking and the rest of the building mixed “under engineering” of foundations and structural support and “over engineering” of other portions. A corrections letter went out, and a second set of plans were submitted dated March 29 that still had labeling problems with the crows nest still referenced in text descriptions and lacked code analysis in the plans. The code analysis was submitted later as a separate letter and showed assembly occupancy with a load factor of 133 persons. On April 7, a second plan check letter was sent highlighting a myriad of problems with the plans and lack of code analysis. On the same day, the director sent a message to the Plan Check engineer attacking his turn around times and instructing him that he should be able to check “8-10 simple structures a day. This is not an unreasonable expectation.” The Plan Check Engineer suggested that he had been trying to reach the submitting engineer by telephone to discuss the problems with the project in spite of the prohibition against using the phone, and was having problems connecting with him, as he was not supposed to answer phone calls. In the same message, the engineer was informed that he would be moved out of his office and placed in a cubicle by April 15, reportedly to train new employees that to this day have not been hired. As a side note, we learned that this engineer, while technically the manager of Plans Examiners, was not permitted to attend most of the interviews of Plans Examiners that took place in the last year.

On April 28, the Grand Jury interviewed the Chief Building Inspector with regards to this project and other issues. Witnesses in the department report that the Chief Building Inspector immediately reported to the Director of DDS what he had learned that the Grand Jury knew about this project and a flurry of activity ensued to get a deed restriction in place that would restrict the use of this building against “overnight sleeping.” The following line states that the building is permitted to be used for “...meeting area/ employee break room in support of the agricultural operations.” The deed restriction was completed that day, with a witness suggesting that he believed that managers worked late that night and that the recycle bin was full of shredding the next morning. The developer came in to have the deed restriction notarized and recorded; he testified that he did not understand why the deed restriction was needed and did not understand that the language contained in it prohibited him from using the structure as a clubhouse for the duck club. He testified that he was so frustrated by the whole process that he had argued successfully about removing the word “only” from the line, “to be used only in support of the agriculture operations” and had been willing to call the building anything to get it through. He stated he was listening to the advice of the Director of DDS to get his duck clubhouse and get out of there.

He stated that he was told that DDS could not notarize his deed restriction due to potential conflict of interest, but if he notarized and registered the document by 5 P.M., the department would issue his permit. He reportedly ran around Oroville to find a notary and when he arrived at the recorders office, he learned that they

2004-2005 BUTTE COUNTY GRAND JURY

stop recording at 4:00 P.M. even though they are open until 5:00 P.M. He also discovered that DDS closes at 4:00 P.M., not 5:00. He returned the following day, and returned a copy of the deed restriction to DDS. The next business day, Monday, May 2, the permit was issued while the developer waited in the lobby. The developer waited in the lobby while the staff scurried about to issue the permit. The Grand Jury contacted the developer for the first time on his mobile phone while he spent most of the day at the department, and the issuance of the permit was such a hectic affair that no one checked the final permit checklist or noticed that CDF had not yet checked the plans for fire safety.

In later testimony, a CDF representative said he had not tested the water flows of the fire hydrant and had concerns due to the fact that initial designs of the system had not included this building; that he wanted to require fire rated roof shingles due to the fact that the area was prone to north wind driven fires, and he had concerns about fire blocking in the walls. Additionally, he noted that the occupancy of the plans had been dropped to 50 persons, but that occupancy level still put the building under the jurisdiction of the Fire Marshall and may require fire sprinklers in the building. He complained that the plans did not include a code analysis, and we noted he was working off of an older set of plans. The final DDS approved revisions had a date of April 14 and he was working from drafts from March 29. When the Grand Jury requested the April 14 set of plans, the Director of DDS struggled to get a staff member to answer the phone, and then reported that her staff had trouble locating them. Exhibits B and C at the end of this report are communications between HCD and CDF; the exhibits detail the concerns of both the State employees.

In sworn testimony, the Director of DDS denied knowledge of issuance of plans without CDF approval and stated that she had never checked the map included in the use permit to verify the location of the building, and that she believed it was not part of the trailer park/duck club contrary to witnesses stating that they had discussed it with her. We do know that she did not act to stop construction after she became aware of the problems from the Grand Jury and told us that was her intention. Building Inspectors inspected the foundation trenches and issued a stop work order within 48 hours of her testimony, and the concrete slab was poured within 72 hours. Approximately 78 hours after declaring an intention to suspend the permit, the Director of DDS mailed a letter to the developer and left on a vacation to Hawaii.

The Supervisor of District 4, testifying under oath, denied any involvement with the project beyond one meeting in 2004 and "keeping tabs on the project" as it moved forward in spite of testimony to the contrary from DDS and Environmental Health staff. The developer reports a chance meeting at a café in Richvale where they discussed the project. We learned from testimony that it is not uncommon for the Planning Commission to approve use permits for these types of "mistakes" after concrete has been poured. We would not be surprised if the developer, based on our meeting with him, tried to pressure the Planning

2004-2005 BUTTE COUNTY GRAND JURY

Commission and Board of Supervisors to feel sorry for him even though it is abundantly clear that he is trying to avoid the costs of building a clubhouse consistent with the UBC and ADA as HCD initially required.

We are very concerned about Butte County's Department of Development Service assuming the costs and responsibilities of over seeing a mobile home park/hunting club and developing a relationship with the state that is tarnishing to the citizens of Butte County. We clearly believe, as do witnesses from Environmental Health, Development Services, and CDF that the nature of the involvement of the Supervisor of District 4 created an intimidating climate in which the Director of DDS looked for ways to make the project happen. The Grand Jury would not be surprised if a lawsuit ensued as a result of the choices made; the developers and taxpayers of Butte County may have yet another expensive blunder to absorb when the costs are billed to DDS.

A draft "Strategic Plan for Development Services", written in 2003, states in directives to staff that were supposed to be signed and dated by the employees that they will: "Not exercise rigidity in interpreting the codes when given flexibility to do otherwise" and "Accept the responsibility for active problem solving instead of asking someone else to answer and take responsibility". In this context, and in the light of situations such as these, we understand why DDS staff continues to feel targeted and why the department has such severe issues with recruitment and retention.

The only DDS line staff that had significant involvement with this project that have not left the department are the Plan Check Engineer and the Chief Building Inspector; the Chief Building Inspector reported to us that, "he wasn't sure if the Plan Check Engineer was going to make it." In a recent interview with a former Butte County Plans Examiner, she told us that after being out of the department for more than 6 months she had found some peace about the work life she experienced in her last years at DDS. She reported that, "many of the things that I did and said seemed reasonable at the time. Looking back..."

Findings

1. Article XII, § 3 of the Butte County Charter prohibits members of the Board of Supervisors directly or indirectly attempting to coerce a department head. The language of this article does not protect county employees, nor is there clear language of penalties for coercion.
2. The authorities granted to the Director of Development Services in Butte County Code are troublesome. There is very little overlap in expertise between Building and Planning, expecting one person to have that knowledge is unrealistic. Allowing the Director of Development Services to act as a Chief Building Official or Planning Manager further jeopardizes a fair decision making process.

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3. Development pressures are rapidly increasing in Butte County and its government is not keeping pace in its policy making or staffing. Butte County does not maintain sufficient personnel or contracts to adequately support consistent development policy or a General Plan.
4. The “one stop shop” concept of Development Services was introduced in Butte County in 1991 and implementation is not yet complete. The volume of applications processed by DDS has increased dramatically since 1998. Insufficient structure, operating procedures, policy direction, and attrition have contributed to inadequate performance of DDS.
5. The diversity of ecology in Butte County presents great challenges to Planning and Building experts during review of permit applications; Butte County may always be slower than other jurisdictions in the review of applications due to ecological issues. However, the current DDS working environment is not conducive to consistency, quality, or accuracy.
6. Erratic application response times are the direct result of the Board of Supervisor’s decisions to reorganize the development review process over a long period of time. The inconsistency in choices made by the Board of Supervisors for DDS, the lack of detailed plans for restructuring development related processes, and lack of timely follow through have resulted in bad customer service.
7. The working environment of DDS, the failure of management to address employee issues in a consistent and timely fashion, and the mixed messages of a divided Board of Supervisors are as much a cause of serious employee behaviors as poor choices that were made by DDS employees.
8. The combined Butte County codes, resolutions, policies, practices, and General Plan are vague, inconsistent, and contradictory. This has created significant challenges for Butte County employees in establishing valid criteria for development permit approval. As a result, having their decisions overturned demoralizes employees.
9. For reasons listed above, recruitment and retention of Planning and Building employees has become a serious challenge for Butte County. California Code section 31000 restricts Butte County’s ability to use outsourced services as a permanent solution for processing building permits.
10. Poor telephone answering procedures, organization, and implementation of available technology add many unneeded steps and obstacles to permit processing procedures.

2004-2005 BUTTE COUNTY GRAND JURY

11. General Fund availability to subsidize DDS has varied from year to year; this has hindered DDS' ability to resolve pressing problems.
12. The current Butte County CAO and his staff have significant expertise and vision to understand what is not working in DDS and its related departments. The current Butte County CAO has some of the groundwork in place for a more functional DDS going forward.
13. When land use laws are abused, and building plans are mislabeled, with or without the knowledge of county staff, it is the taxpayer that ultimately pays the costs.

Recommendations

1. Butte County's Board of Supervisors should place on the ballot for the November 2005 Special Election a Butte County Charter amendment that broadens the term "coercion" in Article XII, § 3 to include acts of intimidation or pressuring. The Charter Amendment should extend the protections afforded to department heads to protect all Butte County employees and violations should be prosecuted as misdemeanors.
2. Members of the Board of Supervisors, department directors, and all county managers should be required to attend annual trainings that focus on the sensitivities of personnel issues; county employees performance should never be discussed in the media or publicly.
3. Any personnel action containing charges that are more than six months old should immediately trigger an investigation of the department's managers. That investigation should document the frequency of their completion of employee performance evaluations and reasons why the complaint was not pursued sooner.
4. Identifiable ambiguities and vagueness in development approval criteria should be isolated and corrected. Consultants should be used in this process to expedite solutions.
5. The Butte County Website should be updated frequently to include calendars and locations of General Plan public meetings as part of the website's General Plan Forum.
6. Butte County should adopt a moratorium on accepting use permits at DDS until such time as project loads are less than 20 projects per Planner and a Planning Manager and additional Planners are recruited and trained. Use permits should not be accepted until the policy portion of the General

2004-2005 BUTTE COUNTY GRAND JURY

Plan is updated, with the exception of minor amendments to current, approved use permits and legally non-conforming structures.

7. Uniforms should be issued to Code Enforcement Officers under similar terms as issuance of uniforms in Public Works. Code Enforcement should be consulted as to their safety concerns and the design of the uniform.
8. All staff at DDS should be individually consulted to evaluate any adverse impacts of DDS office remodels on office performance. Reasonable corrections should be made.
9. The telephone system at DDS should be redesigned. The Permit Center should have a single published incoming number that can be answered at any phone through the use of a hunt group. Permit Center calls should go to a single voice mailbox with sufficient storage capacity that employees can check throughout the day. Time should be scheduled during the workday for catching up on voice mails so that all calls received before 3:00 P.M. on a business day are returned that day. All managers should be able to access this hunt group to help with calls and as a rule, should not leave for the day until all calls are returned.
10. A full audit of DDS should be performed to document internal controls, recommend more efficient accounting procedures, and help establish a more seamless integration with the Butte County Auditor and other county departments for which it collects fees.
11. Butte County Supervisors should direct the CAO to undertake the restoration of the confidence and morale of DDS employees. Line staff should be consulted individually to learn what tools they need to better perform their assigned duties.
12. The Planning Commission should be restored to 9 members to include 4 at large seats to represent cities and towns. The establishment of minimum qualifications for commission members and continuing education requirements should be implemented.
13. Managers at DDS should undergo regular trainings to reinforce their roles as support to line staff and customer service.
14. Hiring staff to fill vacancies should be given a very high priority. Absolute minimum requirements should be established and Butte County should adequately fund the training of new and existing employees to maintain any and all professional certification requirements.

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Responses Required

Butte County CAO
Butte County Board of Supervisors
Butte County Director of Development Services
Butte County Director of Human Resources

2004-2005 BUTTE COUNTY GRAND JURY

Exhibit A



Arnold Schwarzenegger
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research



Sean Walsh
Director

May 16, 2005

; Director

Butte County
Department of Development Services
7 County Center Drive
Oroville, CA 95965

Dear ,

The Governor's Office of Planning and Research (OPR) is required to notify cities and counties with general plans that have not been revised in eight (8) years (Government Code Section 65040.5(a)). Our records indicate that Butte County's General Plan has not been revised in the past 8 years or more.

For purposes of this notification, a revision is considered to be a comprehensive update of at least five (5) of the seven (7) mandatory general plan elements. The following is a list of the mandatory elements of the general plan for Butte County and the last year that it was updated, according to our records. If this information is incorrect, please let us know as soon as possible.

Land Use:	1979
Circulation:	1971
Housing:	2004
Conservation:	1971
Open Space:	1973
Safety:	1977
Noise:	1977

To compile its list of jurisdictions with 8-year-old general plans, OPR surveyed local government planning agencies in 2004 for current information regarding their general plans. OPR also reviewed public notices from the jurisdictions, examined information in our CEQA database and searched the jurisdictions' websites for additional information on the status of their general plans.

General plans which have not been revised within the past 8 years are not necessarily legally inadequate. However, the California Supreme Court has stated that local governments have an implied duty to keep their general plans current (*De Vita v. County of Napa* (1995) 9 Cal. 4th 763). Additionally, local governments must review and revise their general plans as often as they deem necessary or appropriate (Government Code Section 65103(a)). The general plan statutes do not provide a mandatory minimum time frame for revision, except for housing

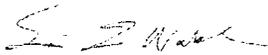
2004-2005 BUTTE COUNTY GRAND JURY

elements, which must be revised not less than every five years (Government Code Section 65588).

OPR is also required to report to the Attorney General, cities and counties with general plans that have not been revised in ten (10) years (Government Code Section 65040.5(b)). Your jurisdiction will be reported to the Attorney General if your general plan becomes 10 years old. If your plan is currently 10 years old or older, your jurisdiction has already been reported to the Attorney General.

If you have any questions or require additional information, please call Erin Larson at (916) 445-0613.

Sincerely,



Sean Walsh
Director

2004-2005 BUTTE COUNTY GRAND JURY



Gray Davis
GOVERNOR



Loretta Lynch
DIRECTOR

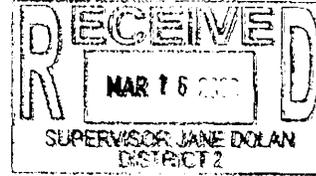
STATE OF CALIFORNIA
OFFICE OF PLANNING AND RESEARCH
SACRAMENTO, CA
95833

OFFICE OF
PLANNING AND RESEARCH
1000 OPR CENTER

STATE OF CALIFORNIA

Governor's Office of Planning and Research

February 29, 2000



Chairperson, Butte County Board of Supervisors
Box 3700
Chico, California
95927-

Dear Supervisor Dolan:

Government Code Section 65103 mandates that all cities and counties periodically review and revise, as necessary, the general plan. While there is no statutory deadline for updating the general plan, the Office of Planning and Research (OPR) recommends that the general plan be reviewed and updated every five years. The purpose of a periodic update is to ensure that the general plan reflects current conditions and serves as an effective guide for all land use decisions and future development.

OPR conducted a telephone survey in January and February to learn the status of your general plan and any contemplated general plan updates. The information we have obtained to date indicates that your jurisdiction has not performed a comprehensive general plan update in the past ten (10) years and that it does not have any plans to do so in the immediate future.

This letter is to request **written confirmation by March 31** that your jurisdiction does not intend to update the general plan in the immediate future. Please indicate the reason(s) why a general plan update is not currently contemplated for your jurisdiction. If our information is not correct, I would appreciate receiving accurate information regarding the status of your general plan. If a general plan update is planned or in progress, please identify an estimated schedule for its completion.

Thank you for your attention to this matter. Please contact Terry Roberts, Senior Planner at (916) 445-0613 if you require technical assistance on the update process.

Sincerely,

Loretta Lynch
Director

2004-2005 BUTTE COUNTY GRAND JURY



BOARD OF SUPERVISORS

ADMINISTRATION CENTER

25 COUNTY CENTER DRIVE - OROVILLE, CALIFORNIA 95965

TELEPHONE: (530) 538-7224

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Second District

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Third District

DUHT JOSIASSEN
Fourth District

FRED C. DAVIS
Fifth District

April 12, 2000

Loretta Lynch, Director
Governor's Office of Planning & Research
P.O. Box 3044
Sacramento, CA 95812-3044

Dear Ms. Lynch:

RE: STATUS OF BUTTE COUNTY'S GENERAL PLAN

I have reviewed your letter of February 29, 2000—which was received March 16, 2000—with Tom Parilo, Director of Development Services. Mr. Parilo is charged with the responsibilities of overseeing and advising the Board of Supervisors on all aspects of Butte County's land use program.

You are incorrect in stating that Butte County has not undertaken a comprehensive review and update of its General Plan in the last 10 years. Butte County has undertaken a number of amendments that had significant regional benefits. These have been major, proactive efforts focused on preserving prime agricultural lands, reinforcing community growth boundaries, and maintaining the edge between town and country.

Two very important General Plan updates have been completed. On February 25, 1992, the Board of Supervisors adopted the Durham-Dayton-Nelson Area Plan amendment to the Land Use Element. These three unincorporated communities are located in the heart of Butte County's prime agricultural lands west of Highway 99, and the plan addressed growth issues surrounding these three communities while establishing development boundaries to preserve agricultural lands. This plan took approximately five years to complete and involved 86,400 acres.

Butte County embarked on a three-year planning process to develop a comprehensive Agricultural Element affecting approximately one-fourth (287,000 acres) of the county. The Board of Supervisors adopted this Element on May 9, 1995.

These very significant planning efforts occurred during the time when Butte County government was overwhelmed with a severe fiscal crisis. These updates to the General Plan constitute a very significant effort in protecting our agricultural land from development pressures and advancing the county planning program.

I bring this to your attention to illustrate Butte County's efforts and commitment to keeping its planning program current and in conformance with state law. As you must know, the County must finance the totality of our planning department with local funds. From October 1993

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Loretta Lynch
April 12, 2000
Page 3

other focused ones, will more than likely consume significant financial and staff resources to complete.

3. A report to review alternative strategies to accommodate the 20-year-and-beyond projected population growth, Highway 70 realignment (to result in a freeway from Sacramento to Chico), and a plan to further protect prime agricultural land from development pressures.

In order to better commit ourselves to a long-range planning program, the Board of Supervisors approved a new principal planner position in the fiscal year 1999/2000 budget. Mr. Parilo filled the position in March of this year.

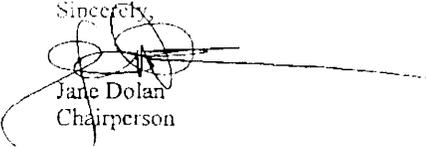
We have reviewed our General Plan and have concluded that the land use and population projects are still valid. An in-depth analysis determined that there is more than adequate land supply in the five cities and in the unincorporated area that is appropriately planned and zoned to accommodate projected growth for the next 20 years and beyond. This growth can occur while protecting prime farmland. This analysis was presented to the Planning Commission in their review of a 20,000-acre new town proposal, which was ultimately denied by the Board of Supervisors in June 1998.

As a county, we have acknowledged that a comprehensive county-wide update is not needed at this time, but we are currently committed to reviewing all elements for internal consistency and redundancy and including an improved format that will be more user friendly. We expect that this task will take approximately 18 to 24 months to complete.

A phased, multi-faceted work program has been developed to address a plethora of land use policy issues. This is provided as an attachment to this letter. Once the overall policy document is completed, there are 16 designated planning areas that will be reviewed and updated.

I hope that this response is complete for your purpose and that you support our approach in addressing our General Plan. As you can see from our past and current efforts, Butte County is committed to, and has been effective in addressing, important focused land use planning issues. We plan to continue this approach while undertaking an internal consistency review.

Sincerely,



Jane Dolan
Chairperson

2004-2005 BUTTE COUNTY GRAND JURY

BILL LOCKYER
Attorney General

BOARD OF SUPERVISORS

AUG 17 2000

State of California
DEPARTMENT OF JUSTICE



OROVILLE CALIFORNIA

1500 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Telephone: (916) 324-5433
Facsimile: (916) 324-4293
E-Mail: frankr@hcdedojnet.state.ca.us

August 11, 2000

Butte County Board of Supervisors
25 County Center Drive
Oroville, CA 96965

RE: Need for Comprehensive Update of General Plan

Dear : Butte County Board of Supervisors:

The Governor's Office of Planning and Research (OPR) has conducted a statewide survey of general plan updates and, pursuant to Government Code section 65040.5(b), has provided to the Attorney General a list of cities and counties which have apparently not adopted comprehensive general plan updates in more than ten years. Your jurisdiction has been included in this list.

If OPR's information regarding your jurisdiction is incomplete, or is in error in some material way, we would appreciate being so advised and receiving information to correct the survey. If, however, your jurisdiction has not completed a comprehensive general plan update within the last ten years, this is a matter of potential concern. For the reasons discussed below, if you have not completed such an update, we urge you to prepare and to adopt one in accordance with the requirements of the Government Code as soon as practicable. We also request that you provide us an update of your progress towards completing, and/or your plans to prepare, a comprehensive general plan update, including a schedule for this activity.

As you know, the provisions of the Government Code require each city and county to adopt a general plan which is essentially a "constitution" for future development" within the community. (*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540; Gov. Code, § 65300.) The general plan must include seven mandatory elements, addressing these elements in the level of detail required by local circumstances. (Gov. Code, §§ 65300.7, 65301 and 65302.) The general plan is required to provide a comprehensive statement of long-

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Butte County Board of Supervisors

August 11, 2000

Page 2

term development policy for the community and must be internally consistent. (Gov. Code, §§ 65300 and 65300.5.) Once a general plan has been adopted, local zoning ordinances and proposed subdivisions, along with their associated improvements, are required to be consistent with the community's adopted general plan. (See Gov. Code, §§ 66473.5 and 65860.)

The general plan may be amended upon compliance with a series of procedural requirements. (Gov. Code, § 65358.) The local planning agency also is assigned the task of periodically reviewing and preparing revisions to the general plan. (Gov. Code, § 65103.)

Except for the housing element, there is no express statutory requirement to amend general plans in accordance with a specified schedule. However, the courts have identified an implied duty to review and to amend general plans as local circumstances warrant, so that the plan meets statutory objectives of providing long-term, comprehensive, internally consistent guidance for the physical development of the community. (*DeVita v. County of Napa* (1995) 9 Cal.4th 763, 792; see also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.5d 553, 572.) Additionally, the Government Code requires local governments to review and report on the status of their general plans to OPR and the Department of Housing and Community Development on a yearly basis (Gov. Code, § 65400), and also directs OPR to contact local governments with general plans that have not been revised within eight years (Gov. Code, § 65040.5(a)).

Unless the general plan for your jurisdiction is reasonably current, then various actions may be at risk of being challenged. If a general plan does not reflect substantial compliance with the requirements of state law, then the city or county may be held to have failed in the "performance of an act which the law specially enjoins," and development approvals may be set aside for lack of consistency with the required general plan. (*Camp v. Board of Supervisors* (1981) 123 Cal.App.3d 334, 348.) The propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its statutorily required elements. (*Families Unafraid to Uphold Rural El Dorado County (FUTURE) et al. v. Board of Supervisors of El Dorado County, et al.* (1998) 62 Cal.App.4th 1332, 1335, 1339-1341.)

We recognize that general plans which have not been comprehensively revised within the past ten years may not necessarily be legally inadequate. Failure to review and to update the plan as warranted by local circumstances could, however, subject your jurisdiction, as well as parties who are pursuing development approvals, to expensive and time-consuming litigation challenges. In addition, if a court decision were to invalidate a development approval within your jurisdiction due to an inadequate general plan, then pending and future development proposals could be stalled until appropriate general plan revisions are adopted. (See *Camp v. Board of Supervisors, supra*, 123 Cal.App.3d 334.)

2004-2005 BUTTE COUNTY GRAND JURY

Exhibit B

Page 1 of 1

[REDACTED]

From: [REDACTED]
Sent: May 11, 2005 11:01 AM
To: [REDACTED]
Subject: RE: [REDACTED] MHP

[REDACTED]

[REDACTED] said he has the fire flows for the hydrant and I asked for it last week but haven't seen it yet. I will be requesting it again today. I understand that Title 25 CCR contains the regulations for mobile home and special occupancy parks. In the document I read they need 500 GPM with the 4" wharthead that is out there. I don't have certified testing results or I'll have to do it myself. They were supposed to give me that information by law but they don't seem to be worried about laws.

I'd also like to know how they get away with the open sewage ponds and the regulatory agency being the state - since the state only does some of the older ponds in the county and Butte doesn't allow them anymore.

Also, on the "bridge" storage shed, I am going to do the plan review even though the permit has been let. AYYA. I did not finish my review before someone up higher than Y [REDACTED] said to issue it. While they changed the title from out to ag accessory building they left enough of the words on the plan sheets for me to question its actual use - which I did to [REDACTED] and she said that she did not believe in doing the review for what we might think it will be used for vs. what the plan says. The deed restriction is a joke.

Is the ag storage/meeting room my jurisdiction or yours (since it's part of the park?)

Thank you for any information you can provide.

[REDACTED]

Fire Safety Officer/Asst. Fire Insp. Planner
Butte County Fire Rescue/CDP Fire
Office (130)
1111 [REDACTED]
[REDACTED] 9700
[REDACTED]@buttecounty.gov

05-11-2005

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Exhibit C

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From: [REDACTED] **Sent:** Fri 5/26/2006 9:40:28 AM
To:
Cc:
Subject: Re: MHP
Attachments:

The park for [REDACTED] was approved for the Permit to Operate in or about September 2004. There has been one home installed, inspected and installation approved.

Prior to the issuance of this PTO, I conducted a preliminary plan review for a clubhouse building within this park. The proposed building included an assembly area, kitchen area, restrooms and a second floor assembly area that would serve as a lookout tower for this duck hunting club. I explained to the designer that the second floor area would need to be accessible to the physically disabled. Therefore, the owner decided not to build the building.

I was informed by a plans examiner within the Butte County Building Division that Mr. [REDACTED] has submitted building plans to their department for application as an agricultural building. The plot plan, that was submitted, indicates a property line modification that relocates the "agricultural/assembly" building outside of the park.

California Building Code Section 301 (Any occupancy not mentioned specifically or about which there is any question shall be classified by the building official and included in the group that its use most nearly resembles, based on the existing or proposed fire and life hazard).

For whatever reason, the Butte County Building Division has decided to disregard this code requirement and issue this permit. Therefore, the Butte County Building Division will be responsible for the occupancy classification and usage of this building.

The Building Division has also been disregarding several major requirements from Title 25 in violation of State Housing Law. This has created a strain in our working relationship.

Sincerely,

[REDACTED]

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APPENDIX I: Summary Of Required Responses

Kronos Workforce Central Timekeeping System	Auditor-Controller, Board of Supervisors
Open Series Financial Software System	Auditor-Controller, Board of Supervisors
Downtown Chico Parking	None
City of Chico Planning Department	Planning Director, Chico
Butte County Clerk Recorder	None
Butte County Veterans Memorial Halls	Board of Supervisors, Butte County CEO, Veterans Service Officer
High Price of Public Education in Butte County	None
Required Physical Education Uniforms CUSD	Board of Education CUSD, Superintendent CUSD
Student Fees at Chico Senior High	Board of Education CUSD, Superintendent CUSD, Principal CHS
Students Get What They Pay For	Board of Education CUSD, Superintendent CUSD, Principal CHS
Marsh Junior High School Follow the Money	Board of Education CUSD, Superintendent CUSD Assistant Superintendent Business Services, Former Principal MJHS (calendar year 2003/04), Principal MJHS
Biggs Schools Report	Superintendent, Office of Education, Principal BHS, Board of Education Biggs School District
The Fair Political Practice Commission, Butte County and You	Board of Supervisors, County Counsel, Director Human Resources, Clerk-Recorder
Butte County Jail / Juvenile Hall	None
Development and Land Use in Butte County	Board of Supervisors, Butte County CAO, Director DDS, Director of Human Resources

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APPENDIX II: Orientation and Training

California Grand Jurors' Association Training Seminar

Jurors attended a two-day seminar in August designed to provide new jurors with the knowledge and skills to perform their basic oversight functions.

Butte County officials, department heads or representatives who spoke to the Grand Jury, providing an overview of the functions of their offices and departments:

Butte County officials, department heads or representatives who spoke to the Grand Jury, providing an overview of the functions of their office and department:

Bob Beeler	-	Supervisor, District 1
Bill Connelly	-	Supervisor, District 1
Jane Dolan	-	Supervisor, District 2
Mary Anne Houx	-	Supervisor, District 3
Curt Josiassen	-	Supervisor, District 4
Kim Yamaguchi	-	Supervisor, District 5

Agricultural Commissioner	Director Behavioral Health
Director of Weights & Measurements	Farm, Home & 4-H Office
Assessor	Director Development Services
Auditor-Controller	Director Employment & Social Services
BINTF Commanders	Director General Services
Chief Administrative Officer	Director Human Resources
Chief of Police, Chico	Director Public Health
Chief Probation Officer	Director Public Works
Chief-CDF/Butte Co. Fire	LAFCO Executive Officer
County Clerk/Recorder	Sheriff
County Counsel	Superintendent of Juvenile Hall
CSUC Police Chief	Treasurer/Tax Collector
CSUC President	
Director Child Support Services	

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APPENDIX III: **Offices, Departments, Boards, Commissions and Officials Visited,** **Observed, Reviewed, Investigated, Interviewed or Consulted by the Grand** **Jury**

Final Reports

Biggs High School

Superintendent, Biggs Unified School District
Principal, Biggs High School and Junior High School
Principal, Biggs Elementary School
Member, Board of Education

Butte County Jail

Administrative Sergeant
Medical Unit Program Manager

Butte County Juvenile Hall

Juvenile Hall Superintendent
Supervisor, Juvenile Hall

City of Chico

Planning Director

Chico Unified School District

Activity Director
Assistant Superintendent
CFO
Citizen/Parent
Comptroller
Counselor
Investigator, Chico Police Department
Principal
School Board Member
State of California Supervisor of Child Nutrition
Superintendent
Teacher

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Department of Development Services

Administrative Analyst – Public Works
Administrative Assistant to Curt Josiassen
Assistant Chief Administrative Officer – Butte County
Assistant County Counsel – Land Development
Assistant Planner – DDS
BCEA Union Steward – Public Works
Building Inspector – DDS
Butte County Counsel
Chief Administrative Officer (former)
Chief Administrative Officer
Chief Building Inspector - DDS
Chief Building Official – DDS (former)
Code Enforcement Officer – DDS
Commission Clerk – DDS
County Clerk/Recorder
Deputy Administrator – Butte County
Deputy Director – Public Works
Director, Department of Development Services (DDS)
Director DDS (former)
Director, Human Resources – Butte County
Director, Public Works
Engineer, California Dept. Housing
Executive Director BCEA Public Employees Union Local 1
Executive Officer, LAFCO
Interim Director Department of Development Services – (former)
Life Safety Officer-Fire Marshall – CDF
Managing Engineer – The Engineering Group
Office Specialist – DDS
Permit Tech – DDS
Personnel Analyst, HR
Plan Check Engineer - DDS
Planning Commissioner
Planning Manager, Department of Development Services (former)
Plans Examiner - DDS (former)
Principal Analyst – DDS
Principal Planner – DDS
Principal Planner, LAFCo
Program Manager – Dept. Environmental Health
Senior Planner – DDS
Senior Planner – DDS (former)
Supervising Building Inspector – DDS
Supervisor, Code Enforcement – DDS
Supervisor, District 1
Supervisor, District 2

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Supervisor, District 3
Supervisor, District 4
Supervisor, District 5
Supervisor, Permit Center – DDS

Kronos Workforce Central Timekeeping System

Payroll Accounting Supervisor
Supervisor, Accounting
Director, Information Systems
Information Systems Manager
Chief Administrator, District Attorney

Open Series Financial Software System and Auditor-Controller Procedures

Auditor-Controller
Supervisor, Auditor Accountant

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APPENDIX IV: **Comments Regarding Responses to the** **2003/04 Grand Jury Final Report**

Effective January 1, 1997, state law requires that all agencies and public officers promptly submit responses to Grand Jury final reports, and to address every finding and recommendation pertaining to that agency or officer. (Penal Code § 933.05, see beginning pages of this Final Report for Penal Code excerpts.)

The 2004/05 Grand Jury received and evaluated all responses requested in the 2003/04 Grand Jury Final Report and determined that all responses met the basic requirements for responding to the findings and recommendations.

The 2004/05 Grand Jury has published the responses to the findings and recommendations of the 2002-03 Grand Jury Final Report and they are available for public review online at the Butte County Clerk-Recorder's Office Website (<http://clerk-recorder.buttecounty.net>).

The 2004/05 Grand Jury wishes to thank those who responded to last year's Final Report and recognizes their contribution to the community and to the Grand Jury process. The time and effort taken to review the 2003/04 Grand Jury Final Report and to prepare and submit responses to the presiding judge are greatly appreciated.

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APPENDIX V: **Conflict of Interest**

The Grand Jury recognizes that a conflict of interest may arise in the course of its investigations. Individual Grand Jury members are required to abstain from participating and voting on investigations in which they have such conflict. Reports in which a Grand Juror abstained are: Biggs, Development Services.