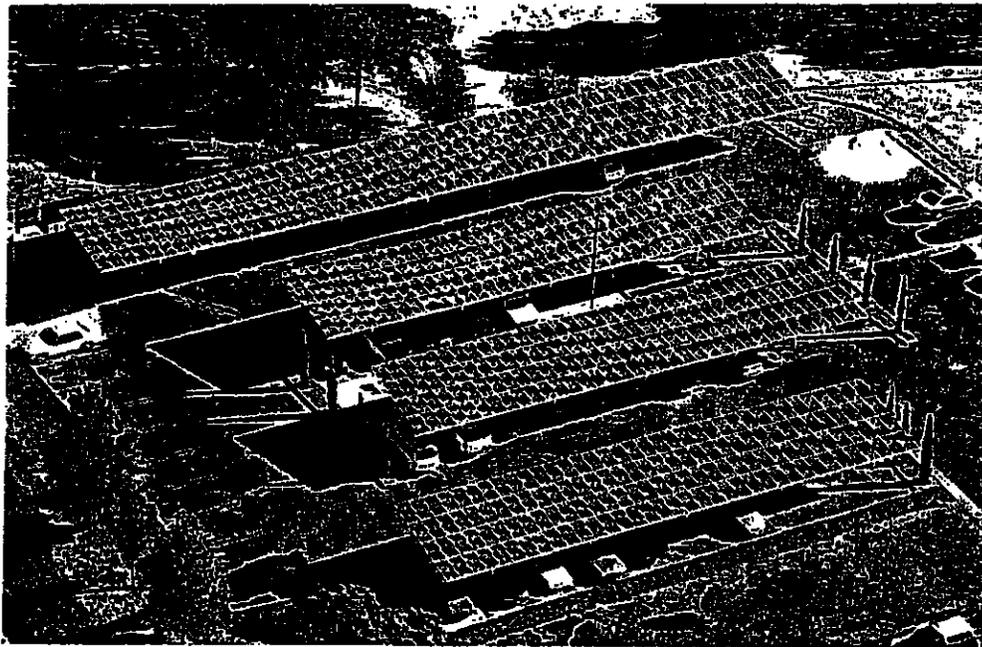




**Responses to the 2004-2005  
Grand Jury Final Report**



**Table of Contents**  
**2004-2005 Butte County Grand Jury Final Report Responses**

**Butte County Board of Supervisors**

- **Kronos Workforce Timekeeping System**
- **Open Series Financial Software System Controller Procedures**
- **Butte County Veterans Memorial Halls**
- **The Fair Political Practice Commission, Butte County, and You**
- **Butte County Jail**
- **Development and Land Use in Butte County: Planning Privation in the Land of Natural Wealth and Beauty**
- **Appendix A- Appointed Department Head Responses**
  - **Paul McIntosh, Chief Administrative Officer**
  - **Bruce S. Alpert, County Counsel**
  - **Paul McIntosh, Interim Development Services Director**
  - **William S. Curry, General Services Director**
  - **Jeanne Gravette, Director-Human Resources**
  - **John M. Wardell, Chief Probation Officer**
- **Appendix B- Elected Department Head Responses**
  - **David A. Houser, Butte County Auditor-Controller**
  - **Candace J. Grubbs, County Clerk-Recorder/Registrar of Voters**
  - **Perry L. Reniff, Sheriff-Coroner**

**Mary Anne Houx, Butte County Board of Supervisors: District 3**

- **Individual response, Development and Land Use in Butte County: Planning Privation in the Land of Natural Wealth and Beauty**

**City of Chico Planning Department**

- **Kim Seidler, Planning Department- City of Chico**
- **Scott Gruendl, Mayor- City of Chico**

**The Chico Unified School District Board of Trustees**

- **Required Physical Education Uniforms**
- **Student Fees at Chico High School**
- **Students Get What They Pay For**
- **Marsh Junior High School Follows the Money**
- **Attachment: Student Body Funds (ASB), ASB Practice (Draft 9/20/05)**
- **Attachment: Fees Practice (Draft 9/20/05)**
- **Attachment: Fundraising.(Draft 9/20/05)**

**Jeff Sloan, Former Principal, Marsh Junior High School**

- **Marsh Junior High School Follows the Money**
- **Attachments: Exhibits**

**The Biggs Report**

- **S. Lee Funk, Ed.D., Superintendent, Biggs Unified School District (response adopted by the Biggs Unified School District)**
- **Exhibits**
- **Don McNellis, Superintendent, Butte County Office of Education**

# **Butte County Board of Supervisors**

**Kronos Workforce Timekeeping System**

**Open Series Financial Software System Controller Procedures**

**Butte County Veterans Memorial Halls**

**The Fair Political Practice Commission, Butte County, and You**

**Butte County Jail**

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

## **Appendix A- Appointed Department Head Responses**

**Paul McIntosh, Chief Administrative Officer**  
**Bruce S. Alpert, County Counsel**  
**Paul McIntosh, Interim Development Services Director**  
**William S. Curry, General Services Director**  
**Jeanne Gravette, Director-Human Resources**  
**John M. Wardell, Chief Probation Officer**

## **Appendix B- Elected Department Head Responses**

**David A. Houser, Butte County Auditor-Controller**  
**Candace J. Grubbs, County Clerk-Recorder/Registrar of Voters**  
**Perry L. Reniff, Sheriff-Coroner**

orig



**BOARD OF SUPERVISORS**

ADMINISTRATION CENTER  
25 COUNTY CENTER DRIVE - OROVILLE, CALIFORNIA 95965

TELEPHONE: (530) 538-7224

BILL CONNELLY  
First District

JANE DOLAN  
Second District

MARY ANNE HOUX  
Third District

CURT JOSIASSEN  
Fourth District

KIM K. YAMAGUCHI, Chair  
Fifth District

September 14, 2005

Honorable Barbara Roberts, Presiding Judge  
Butte County Superior Court  
One Court Street  
Oroville, CA 95965

RE: Board of Supervisors' Response to the 2004-2005 Grand Jury Final Report

The Butte County Board of Supervisors would like to thank the members of the Grand Jury for many hours spent in researching, investigating, and making recommendations for improvements in government operations that benefit the citizens and taxpayers of Butte County.

In accordance with Penal Code Sections 933 and 933.05, the Board submits the following agency response to the findings and recommendations of the 2004-2005 Grand Jury Final Report pertaining to matters under its control. A response from the Board is additionally provided where the Grand Jury has requested a response to budgetary or personnel matters of a county department that is headed by an elected official. In such cases, the Board's response addresses only those budgetary or personnel matters over which it has some decision-making authority.

In preparing an agency response, appointed department heads were requested to submit responses to the Chief Administrative Officer for attachment to the overall agency response included herein. You will find the various departmental responses located in Appendix A of this agency response. Responses provided to the Chief Administrative Office by elected Department Heads have also been included as Appendix B. The Board of Supervisors' response below is organized by major heading in the order located within the FY 2004-05 Grand Jury Report.

## **KRONOS WORKFORCE CENTRAL TIMEKEEPING SYSTEM**

### ***Grand Jury Findings***

1. *The impact of the Kronos WCTS on Butte County government is significant.*

**The respondent agrees with this finding.**

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.*

**The respondent agrees with this finding.**

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.*

**The respondent agrees with this finding.**

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.*

**The respondent agrees with this finding.**

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.*

**The respondent neither agrees nor disagrees with this finding.** The respondent is unable to comment on opinions of other elected officials or their staff. However, the respondent agrees that County departments need to be involved prior to the implementation of any major enterprise-wide information system such as Kronos. The respondent believes that this, and future enterprise-wide information system implementations, should be managed by the Information Systems Department with input from affected departments through a system users group that meets regularly during implementation.

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.*

**The respondent disagrees with this finding.** The cost of the system is currently under-budget. However, in hindsight, the County could have implemented the system quicker if more resources were invested up front for training and project management. It has

become clear that an enterprise-wide system implementation of this magnitude requires significant dedicated project management and training resources at the onset of implementation.

7. *Kronos training of county employees consisted of instructing them how to train, but not how to use the system.*

**The respondent partially disagrees with this finding.** For all users of Kronos, training was made available on how to use the system prior to conversion. Kronos did provide some initial training on how to conduct a training class early in the implementation process. At a later time, prior to a department's conversion, a custom training was provided to the department's users.

Due to the variety of training resources and processes that currently exist in County departments, the County is providing Kronos training through different approaches based on what will be most effective for a department. The "train the trainers" approach works best for some, but for others a "coordinated training" using Auditor's Office staff in conjunction with department trainers is best. For small departments, using Auditor's Office staff to provide informal training has been most effective.

### ***Grand Jury 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.*

**The recommendation has been implemented.** Appropriate interface between the accounts payable, payroll, and human resources systems has been implemented.

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.*

**The recommendation has been implemented.** The Information Systems Department has invested considerably in physical information technology infrastructure and developing expertise in network engineering over the last three years. With this infrastructure, they are well positioned to take a larger role in managing County information systems to ensure compatibility and ensure more effective utilization. In the next three years, depending upon resource availability, the Information Systems Department intends to invest considerably in developing in-house project management and training resources so that they can be better equipped to manage enterprise-wide information system implementations and upgrades. Implementation challenges such as those encountered with the Kronos project can be addressed more effectively and efficiently when such resources are in place prior to an implementation effort.

3. *Any additions or adjustments to the WCTS should require coordination between the office of the Auditor-Controller and the users, before implementation.*

**The recommendation will be implemented within six months.** The respondent will direct the Director of Information Systems to establish a Kronos Users Group to meet regularly to address department concerns during Kronos 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.*

**The recommendation will not be implemented because it is not warranted.** The respondent is not aware of any required modifications to the reports generated by Kronos. The system is generating the reports that it was designed to produce.

5. *Insist on more productive customer support from Kronos so that the WCTS can be used as efficiently as possible.*

**The recommendation will not be implemented because it is not warranted.** Having implemented Kronos in most departments, County staff are now more knowledgeable with this product in a County setting than Kronos specialists. Therefore, little Kronos support will be needed in the future. When requested, Kronos has been very responsive and effective in their support.

## **OPEN SERIES FINANCIAL SOFTWARE SYSTEM CONTROLLER PROCEDURES**

### ***Grand Jury Findings***

1. *Fiscal limitations are a factor in the development and maintenance of Butte County computer systems.*

**The respondent agrees with this finding.** However, within the County's fiscal limitations there is room for increased efficiencies in how computer systems are developed and maintained. To determine how the County can increase efficiencies and effectiveness, the Board of Supervisors and the Chief Administrative Officer commissioned a study in December 2003 to explore the best approaches available to Butte County for the provision of information technology services. The study gathered and analyzed information regarding the use of technology throughout the County. Additionally, an extensive research effort was undertaken to review technology practices and trends. The study culminated in a report titled, "Information Technology: Butte County At A Crossroads."

Throughout the report, numerous recommendations were made aimed at improving overall technology conditions within Butte County. These recommendations are often referred to when planning a course of action in the information technology arena. Report recommendations referred to for purposes of addressing Pentamation Open Series concerns include the following:

- Implement Board of Supervisors Policies regarding Information Technology.
  - Utilize the services of qualified project managers, application system programmers, and database architects.
  - Centralize the responsibility for network design and development with the Information Systems Department.
  - Establish responsibility for security policy and procedural development including security auditing with a Chief Security Officer within the Information Systems Department.
  - Implement additional Pentamation functional modules and ensure that Pentamation is operating effectively in all County departments.
  - Develop a transition strategy to migrate Pentamation and other enterprise systems to the Information Systems Department.
  - The user-advisory groups, established to provide input for Pentamation and Kronos should continue and be expanded, and coordinated by Information Systems Department and Administration staff.
  - The Information Systems Department must regroup and position itself to undertake greater responsibilities and challenges. In essence, Information Systems Department must retain responsibility for all network design and maintenance functions, participate in all aspects of information technology planning, and monitoring and provide support to departments on items such as operating systems, networks, hardware, etc.
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.*

**The respondent agrees with this finding.**

3. *Computer system security is vulnerable in that signed on, but unattended, terminals are accessible by unauthorized personnel.*

**The respondent agrees with this finding.**

### ***Grand Jury 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.*

**The recommendation requires further analysis** that will be conducted within six months. The Auditor's Office is not resourced to provide an ongoing training program for the Pentamation Open Series System. It is also not resourced to manage the implementation or maintenance of the modules of the system that pertain directly to the Human Resources Department and County Administration. Recently, the Auditor-Controller has been meeting with County Administration and the Director of Information Systems to coordinate the transition of the management of the Pentamation Open Series System from the Auditor's Office to the Information Systems Department.

Sungard-Pentamation, the Pentamation Open Series System software provider, charges in excess of \$1,000 per day for generic training services that would not take into consideration business practices unique to Butte County. It is very likely more efficient and effective to develop and maintain an in-house training program with dedicated training staff rather than to utilize Sungard-Pentamation training resources. The respondent will direct staff to explore development of an ongoing training curriculum for current and future users. The extent of training made available to users will depend upon the availability of resources that can be committed to a training program.

The need for a dedicated Pentamation Open Series System manager has been growing for quite some time. Staff will explore how a system manager position could work with existing and new Information Systems training resources to develop an ongoing training program.

The Open Series User's Group has not met in the past year. A contract consultant initially facilitated these meetings, but they have not been held since the contract expired. The Auditor's Office has not taken the initiative to resume these meetings due largely to the limited resources in the Auditor's Office to facilitate regular, productive meetings. County Administration will work with the Information Systems Director to facilitate regular meetings until such time as a dedicated Open Series system manager is in place to coordinate the meetings and respond to meeting outcomes.

These steps are consistent with the study recommendations received by the Board of Supervisors in 2004 within the report titled "Information Technology: Butte County At A Crossroads."

2. *A process whereby unattended computer terminals lock and require users to re-authenticate before further use should be implemented.*

**The recommendation will be implemented within a year.** The County currently has the technical ability to require users to re-authenticate after a computer is unattended for a predetermined period of time. However, there exists no policy guidance regarding length of time for such a delay or any other related computer system security concerns. The respondent will direct the Chief Administrative Officer to prepare a Security Policy that will address this and other computer system security concerns.

## **BUTTE COUNTY VETERANS MEMORIAL HALLS**

### ***Grand Jury 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.*

**The respondent partially disagrees with this finding.** The use of veterans' halls varies depending on the veteran group activity at each hall, as well as use by community organizations, government entities, and individuals. The usage of these halls can vary significantly from one to another. Over the last eight years, the annual revenues have averaged \$33,800, or 15% of expenditures. Although this appears to be a huge disparity, the primary purpose of the halls is for the gratuitous use of veterans' organizations, and any other use for fees cannot interfere with the veterans' use.

It should be noted that due to limited funding to maintain County buildings through past years, considerable building maintenance has been deferred for all County-owned buildings. Generally, the amount budgeted to maintain a County building corresponds to its usage. Since the use of the halls is normally limited to weekly or monthly meetings lasting only a few hours, plus occasional fee-based events, less maintenance work is budgeted for the halls compared to other County buildings.

- 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.*

**The respondent disagrees with this finding.** Under the direction of the Chief Administrative Officer who is the department head of the Chief Administrative Office, the General Services Director is responsible for the maintenance of all County property including the halls. The General Services Director also manages the Veterans' Services Office, which is a part of General Services, and has complete management control 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.*

**The respondent neither agrees nor disagrees with this finding.** The respondent is unable to comment on this finding since it is unclear to what extent of the Grand Jury searched for individuals or groups interested in changes in the halls. However, the County has and will continue to actively seek changes in policy if it will result in greater efficiency and/or effectiveness. An example of a policy change in the halls is illustrated in the response to Finding #4 noted below.

- 4. No commission or committee has been formed nor any individual appointed to focus on the issues.*

**The respondent disagrees with this finding.** In 2003, the General Services Customer Service Team evaluated the halls and developed recommendations for improvement. As a result of the Team's analysis and development of a cooperative relationship with the Paradise veterans' organizations, the General Services Director presented a pilot program to the Board of Supervisors on December 16, 2003 for improvements to the management of the Paradise hall. The proposal recommended that at the conclusion of the Paradise pilot program, the Team move forward to analyze the remaining halls and transition

management of the halls to General Services Administration. The pilot program is virtually complete, and the General Services will implement this change in other halls.

Additionally, a Memorial Hall Committee has existed at four halls since 1927, and since 1949 at Biggs. The hall committees meet to discuss the use and condition of their respective hall and make requests or recommendations to the County accordingly. As part of the Paradise hall pilot project, General Services staff attend the monthly Paradise Memorial Hall Committee meetings and participate in the discussions.

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.*

**The respondent partially disagrees with this finding.** While the halls are deteriorating, they are not at the point of being uninhabitable. The respondent agrees, however, that renovating the halls and bringing them into compliance with current codes will cost millions of dollars.

It should be noted that the County has millions of dollars of unmet needs as determined by the State Commission on Mandates. While upgrading the halls is a worthy goal, the County has to spend its limited resources on many mandated services and in critical areas such as public safety. The County welcomes any public or private funding that will improve the halls.

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.*

**The respondent agrees with this finding.** The County makes good faith efforts to comply with the Americans with Disabilities Act (ADA) by budgeting various projects each year. However, only the most pressing projects are addressed each year due to limited resources; for Fiscal Year 2005-06, the budgeted amount for ADA projects was \$70,200. Recently, the County secured the federal Community Development Block Grant (CDBG) to make significant progress in meeting ADA requirements in veterans' halls for Fiscal Years 2006-07 and 2007-08. When the CDBG funds are made available, the actual work will begin.

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.*

**The respondent agrees with this finding.** The County will continue to seek outside funding and work with organizations such as the Valley Contractors' Exchange (VCE) in Chico that has expressed a willingness to undertake repair and renovation projects at the Chico Veterans' Hall on a volunteer basis at no cost to the County. In cooperation with the veterans' organizations, it is hoped that several additional options can be explored and

solutions satisfactory to all parties for making the necessary repairs and changes can be found. Some veterans' organizations do contribute to the upkeep of the veterans' halls, and the County intends to encourage the veterans' organizations to increase such contributions.

8. *All of the VMH are far larger than the needs of the veterans groups using them.*

**The respondent partially disagrees with this finding.** As noted earlier, the use of veterans' halls varies depending on the veteran group activity at each hall, as well as use by community organizations, government entities, and individuals.

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.*

**The respondent disagrees with this finding.** Since the decision of April 29, 1929, in *Captain Charles V. Gridley Camp No. 104, United Spanish War Veterans v. Board of Supervisors of Butte County* (1929) 98 Cal.App.585, in which the issue requiring a hall maintain self-sufficiency was struck down by the Third Appellate District Court of California, it has been the practice of the County to allow veterans' organizations gratuitous use of the halls. The County rents the halls to the public to generate revenue to help defray maintenance costs when not being used by veterans. However, these rentals do not generate sufficient revenues to make the halls "self-sufficient."

The County is in the process of evaluating each hall and recommending improvements, which includes increased rental activity. Once ADA improvements have been made through CDBG funding, and other improvements are made through the efforts of the VCE, it is expected that the veterans' halls will be in greater demand for rental by the public.

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.*

**The respondent neither agrees nor disagrees with this finding.** The respondent is unable to comment on this finding since it is unclear to what extent of the Grand Jury searched for individuals or groups with knowledge of state or federal funding. However, the County continues to seek funding from outside sources to make improvements in the halls. As mentioned previously, the County recently obtained a CDBG grant that will allow for use in meeting ADA improvements in Fiscal Years 2006-07 and 2007-08.

### ***Grand Jury 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.*

**The recommendation has been implemented.** The General Services Director is responsible for oversight of the halls and is qualified and responsible to interact with supervisors, commissions and state government in all aspects concerning the halls.

- 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.*

**The recommendation has been implemented,** insomuch as the County continues to work with the veterans' organizations regarding the use of the halls. The County also has a five, ten and fifteen year Master Maintenance Plan for all county facilities, which includes all of the memorial halls. It should be noted that upgrades necessary to bring each of the halls into compliance with current county codes and federal ADA requirements have been identified.

The sale of any one of the halls is contingent upon the County providing substitute facilities for the veterans' groups, the veterans' acceptance of those facilities or acceptance of any other County proposal regarding their meeting place, or the veterans' abandonment of a hall.

- 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.*

**The recommendation will not be implemented because it is not reasonable.** The County will continue to work with the veterans' organizations, seek grant funding and form relationships with organizations such as the VCE to address the problems associated with maintenance of the aged facilities with limited funding. However, the County cannot be bound by findings or recommendations from non-elected councils or commissions.

- 4. Seek federal and/or state aid in obtaining funds to either upgrade the existing structures, or to fund a move into smaller halls.*

**The recommendation has been partially implemented.** As mentioned previously, the County was able to secure CDGB funds for ADA improvements to the halls in Fiscal Year 2006-07 and in 2007-08. The actual upgrades on these structures will begin when the funds become available. Moreover, the County will continue to seek outside funding and work with veterans' groups to explore the possibility of consolidating the halls and/or finding suitable alternatives.

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.*
  - 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.*

**The recommendation requires further analysis.** Within six months, the County will look into the feasibility of selling the existing halls and purchasing and/or building alternative halls that might better meet the needs of veterans. However, even if new, more functional facilities are obtained, they will be used primarily by the veterans. Rentals of these buildings will not interfere with the use by the veterans.

## **THE FAIR POLITICAL PRACTICE COMMISSION, BUTTE COUNTY, AND YOU**

### ***Grand Jury 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.*

**The respondent agrees with this finding.**

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.*

**The respondent partially disagrees with this finding.** At the time of the Grand Jury investigation, inconsistencies existed in some departments pertaining to the collection of "leaving office" statements. Subsequently, the County has taken the steps to ensure better compliance with State law.

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.*

**The respondent agrees with this finding.** As noted by the Grand Jury report, the Human Resources Department has implemented policy changes to comply with filing requirements.

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.*

**The respondent is unable comment on this finding.** The Clerk-Recorder is an independently elected official, and the Board of Supervisor only has budgetary control over this office. However, as noted above, the Human Resources Department has implemented policy changes to comply with filing requirements.

### ***Grand Jury 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.*

**The recommendation has been implemented.**

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" (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.*

**The recommendation will not be implemented.** The FPPC has recently confirmed that the Board of Supervisors of counties is the appropriate code reviewing body, and members of the grand jury are not under the jurisdiction of the court for purposes of Form 700 filing requirements.

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.*

**The recommendation has been implemented.**

- 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.*

**The respondent is unable to comment on the recommendation.** The Clerk-Recorder is an independently elected official, and the Board of Supervisor only has budgetary control over this office. However, the respondent agrees that annual training for staff and designated filers would ensure better compliance.

- 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.*

**The recommendation has been implemented.** The Human Resources Department is forwarding a report to the Clerk-Recorder on a bi-weekly basis.

## **BUTTE COUNTY JAIL**

### ***Grand Jury 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.*

**The respondent agrees with this finding.** It should be noted that the County currently operates three pods with 60 beds at the Juvenile Detention Center. When additional resources are

available, it is the desire of the County to operate four pods with 80 beds. As the County continues to grow, it is anticipated that all six pods will be operational in the future.

**DEVELOPMENT AND LAND USE IN BUTTE COUNTY: PLANNING PRIVATION IN THE LAND OF NATURAL WEALTH AND BEAUTY**

***Grand Jury 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.*

**The respondent agrees with this finding.**

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 Chief Building Official or Planning Manager further jeopardizes a fair decision making process.*

**The respondent disagrees with this finding.** Many jurisdictions have a combined agency of building and planning functions that are overseen by a single individual, who may or may not have a strong background in either technical area. Though it is not the County's preference to have the Director serve in either the Building Official or Planning Manager function, due to retention and recruitment issues, it has been necessary for the Director to serve as such in the past, and may be necessary again in the future. The County Administrator's Office and Human Resources Department will continue to work with the Development Services Department to recruit qualified candidates to fill vacant positions. In addition, the County has committed to begin negotiating the implementation of the results of a Compensation Study by September 1, which will help address some of the County's current recruitment and retention issues.

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.*

**The respondent disagrees with this finding.** The Department of Development Services, in coordination with the County Administrator's Office, is currently reviewing workloads and staffing and resource needs within the Department. The County Administrator's Office, as directed by the respondent, has contracted with outside individuals who have expertise in land use systems to lead the review. Review is taking place in the current planning, advanced planning, and building areas. Recommendations will be brought forward to the respondent as various stages of the review are completed. Key to this discussion is the fact that many of the shortcomings of the land use system, not just Development Services, are related to vague and conflicting policies. The

respondent will be taking action to begin the process for updating the County's General Plan within the next six (6) months.

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.*

**The respondent agrees with this finding.**

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.*

**The respondent partially disagrees with this finding.** As indicated by the response from the Development Services Department (see Appendix A), there are a number of factors that lead to erratic application response times. Forces outside of the control of the County as well as some inconsistent policies within the County are key to the erratic nature of the process.

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.*

**The respondent disagrees with this finding.** As indicated by the response from the Development Services Department (see Appendix A) and in the Grand Jury Report itself, there are a number of factors that lead to erratic application response times. Forces outside of the control of the County as well as some inconsistent policies within the County are key to the erratic nature of the process.

The organizational structure is not the issue that drives the problems within the land use system. Any organizational structure without clear and consistent policy and guidance is going to have difficulty functioning. The County departments involved in land use are all working together to improve the system.

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.*

**The respondent disagrees with this finding.** The Grand Jury seems to imply that employees should not be held accountable for failing to follow direct instructions from superiors or for failing to follow written policies and procedures. A resolution or policy

adopted by a 3-2 vote of the Board of Supervisors is just as enforceable as one adopted by a 5-0 vote. Staff does not have the luxury of picking and choosing which policies they will follow. The Board of Supervisors acts by a motion of the body as a whole and not by the statements or actions of individual members of the Board. Although the Board may disagree over the creation and establishment of policy, its actions are the consensus of a majority of the Board. Such is the product of a democratic process and representative government. The poor choices made by DDS employees were of their own volition and not as a result of a divided Board of Supervisors.

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.*

**The respondent agrees with this finding.**

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.*

**The respondent partially disagrees with this finding.** The recruitment and retention of Planning and Building employees is a serious challenge for Butte County for a variety of reasons, including the ones listed above. Two key issues not mentioned by the Grand Jury include the statewide shortage of qualified professionals who wish to work for public agencies, as well as Butte County's financial inability to compete with other jurisdictions for the limited supply of candidates. As indicated in Finding #2, the County is completing a comprehensive compensation study and will begin negotiating implementation of the results of that study by September 1. The Board anticipates that this study, once implemented, will enable Butte County to be competitive in the employment market place.

It appears that California Code section 31000 was erroneously cited by the Grand Jury. This section limits the extent to which the County can go outside for specialized services, particularly where the work has previously been performed by merit system employees.

10. *Poor telephone answering procedures, organization, and implementation of available technology add many unneeded steps and obstacles to permit processing procedures.*

**The respondent agrees with this finding**

11. *General Fund availability to subsidize DDS has varied from year to year; this has hindered DDS' ability to resolve pressing problems.*

**The respondent disagrees with this finding.** The General Fund is one source of funding for DDS. The County has implemented numerous fees in the past couple of years that have led to increased appropriations (expenditures) and reduced General Fund subsidy due to increased revenue streams. Overall, DDS has had increased resources

over the past six years; the variation in General Fund subsidy is related to increased revenues coming into the Department, not a reduction in resources available to the Department. The history of budgeted resources for DDS over the past six years is illustrated in the following table.

**Development Services Budgets - FY 00-01 through FY 05-06**

<b>Budget Unit</b>	<b>FY 00-01</b>	<b>FY 01-02</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
<b>440.001 - Planning</b>						
Expenditures	\$ 355,339	\$ 416,802	\$ 501,674	\$ 3,812,750	\$ 4,127,099	\$ 4,208,802
Revenues	\$ 57,000	\$ 57,000	\$ 70,902	\$ 2,044,950	\$ 2,799,489	\$ 3,024,682
Net County Cost	\$ 298,339	\$ 359,802	\$ 430,772	\$ 1,767,800	\$ 1,327,610	\$ 1,184,120
<b>440.002 - Building</b>						
Expenditures	\$ 1,475,123	\$ 1,466,226	\$ 1,725,560	\$ -	\$ -	\$ -
Revenues	\$ 1,482,262	\$ 1,466,226	\$ 1,725,560	\$ -	\$ -	\$ -
Net County Cost	\$ (7,139)	\$ -	\$ -	\$ -	\$ -	\$ -
<b>TOTAL</b>						
Expenditures	\$ 1,830,462	\$ 1,883,028	\$ 2,227,234	\$ 3,812,750	\$ 4,127,099	\$ 4,208,802
Revenues	\$ 1,539,262	\$ 1,523,226	\$ 1,796,462	\$ 2,044,950	\$ 2,799,489	\$ 3,024,682
Net County Cost	\$ 291,200	\$ 359,802	\$ 430,772	\$ 1,767,800	\$ 1,327,610	\$ 1,184,120

**NOTE:** In FY 03-04, the budget units for the Building and Planning Divisions were merged into one budget unit.

*12. The current Butte County CAO and his staff have significant experience 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.*

**The respondent agrees with this finding.** The respondent agrees that the groundwork has been laid, and that there is a lot of work ahead for the County as it moves into the General Plan Update process and other system-wide improvements. The respondent would like to acknowledge all of the employees involved in land use issues for their ongoing enthusiasm to improve the system.

*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.*

**The respondent partially disagrees with this finding.** The respondent is not aware of practices within the Development Services Department to mislabel building plans, though it appears that it may have been the practice of past employees. If it is found that an employee is mislabeling plans, the Development Services Department will take appropriate disciplinary actions.

## **Grand Jury 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.*

**This recommendation will not be implemented because it is not warranted.** The Board of Supervisors disagrees with this recommendation on a number of points. First, the deadline for placement of a local matter on the Special Election ballot was August 6, 2005. To comply with this recommendation would have required the Board of Supervisors to act on a matter over which no discussion or deliberation had occurred, nor would there have been ample opportunity for public discussion, input and discourse regarding the impacts of such a Charter Amendment. In addition, the Special Election has been called by Governor Schwarzenegger. In his proclamation calling the election, Governor Schwarzenegger pledged to pay for the costs of the Special Election, either through appropriations in the current year or through reimbursement in the next fiscal year. Placing a local, countywide issue on the Special Election would obviate the State's responsibility for paying the costs of the Special Election, which are estimated by Butte County to be \$413,600. The next general election is scheduled for June 2006. If the Board of Supervisors, after public input and discussion, were to determine it desirable to place a Charter Amendment before the voters, it could do so during that election with little to no additional costs.

Beyond concerns about the Special Election costs, though, the Board of Supervisors disagrees that it is necessary to implement this recommendation. The current charter provision states that:

### **Sec. 3. Coercement by board of supervisors; county officers.**

No member or members of the board of supervisors shall directly or indirectly coerce or attempt to coerce the head of any county department or other county officer appointed or confirmed by the board of supervisors in the performance of the duties of his office, or attempt to exact promises from any candidate for any such office relative to any appointment or removal of any county officer or employee; and provided employee within his department to assist said officer in any political activities pertaining to the election of such officer nor request or require from any employee within the department of said officer any contribution of money for the election of said officer.

Black's Law Dictionary describes "coerce" as "*compelled to compliance; constrained to obedience, or submission in a vigorous or forcible manner*" and "coercion" as "*compulsion; constraint; compelling by force or arms or threat*". The events and circumstances described in the Grand Jury Report hardly approach the threshold of "coercion". The Board of Supervisors feels strongly that each member was elected by the citizens of their district to represent them when necessary in matters

concerning county or state jurisdiction, not to compel or coerce action in favor of the constituent but to ensure equitable application of policies and procedures and ensure the effective use of county resources.

- 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.*

**The recommendation has been implemented.** The County's Human Resources Department provides an on-going series of training related to this subject. Department Directors, Managers and Supervisors in the Development Services Department have attended in the past and will continue to attend in the future. The respondent is familiar with the laws and regulations governing privacy and the confidential nature of personnel issues.

The respondent agrees that employees' performance should never be discussed in the media or publicly. It appears that, in some cases, it has been the employee that brings the story to the media and the public, which is out of the County's control.

- 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.*

**The recommendation has been partially implemented.** Many of the personnel issues that languished on the shelf were due to inconsistent leadership and constant turnover of management in the Department. The respondent will direct the County Administrator's Office to immediately investigate personnel actions containing charges that surface for the first time more than six months after the charge allegedly occurred.

- 4. Identifiable ambiguities and vagueness in development approval criteria should be isolated and corrected. Consultants should be used in this process to expedite solutions.*

**The recommendation has been implemented.** The County Administrator is currently working with outside consultants and the Department of Development Services to identify and take actions to correct any ambiguities and vagueness in development approval. Due to the fact that much of the ambiguity and vagueness may be inherent in the County's policies, it will take time to work through the public process for correcting areas of inconsistency.

- 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.*

**The recommendation has not yet been implemented, but will be in the future.** Once the respondent directs staff to move forward with an update to the General Plan, a calendar of dates, times, and locations of all public meetings related to the General Plan

will be included on the County website. It is anticipated that this direction will be given prior to the end of the calendar year.

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

**The recommendation will not be implemented because it is not warranted.** The respondent does not have the authority to implement a moratorium on development unless very specific legislative findings are made that there is a “*current and immediate threat to the public health, safety, or welfare*”, per Government Code, § 65858 et al. To stop development in Butte County until the General Plan is updated is not reasonable. The respondent has directed the County Administrator and the Department of Development Services to identify resources needed to bring workloads to a more manageable level in the Planning Division.

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.*

**The recommendation has not yet been implemented, but will be in the future.** The respondent understands that the Department of Development Services is working with the Code Enforcement staff to identify the resources that are appropriate and needed, and to meet and confer with appropriate bargaining units, if necessary, regarding this change in working conditions.

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.*

**The recommendation has been implemented.** According to Development Services, staff input has been requested in the past and will continue to be requested in the future regarding office remodels.

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 PM 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.*

**The recommendation has been implemented.** The Development Services Department has taken steps to improve its telephone answering process and procedures.

*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.*

**The recommendation will be implemented within a year.** The respondent will direct staff to request that the County's independent auditor review the Development Services Department specifically, as part of the annual audit.

This concludes the overall County agency response to the Grand Jury findings and recommendations for FY 2004-05. Attached to this response are the individual responses prepared by Department Heads where Grand Jury findings and recommendations related to their areas of responsibility.

The Board of Supervisors, Chief Administrative Officer, and County department heads appreciate the time commitment and diligent efforts of each Grand Jury member in conducting the research and analyses, attending meetings and interviews, and working to identify areas for improvement within government operations throughout our fine County.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kim Yamaguchi', written over the word 'Sincerely,'.

Kim Yamaguchi, Chairman  
Butte County Board of Supervisors

# APPENDIX A

## APPOINTED DEPARTMENT HEAD RESPONSES



PAUL MCINTOSH  
CHIEF ADMINISTRATIVE OFFICER

# CHIEF ADMINISTRATIVE OFFICE COUNTY OF BUTTE

25 COUNTY CENTER DRIVE  
OROVILLE, CALIFORNIA 95965  
Telephone: (530)-538-7631 Fax: (530)-538-7120

## MEMBERS OF THE BOARD

BILL CONNELLY  
JANE DOLAN  
MARY ANNE HOUX  
CURT JOSIASSEN  
KIM K. YAMAGUCHI

August 26, 2005

Honorable Barbara Roberts, Presiding Judge  
Butte County Superior Court  
One Court Street  
Oroville, CA 95965

**Re: Chief Administrative Officer's Response to the FY 2004-2005 Grand Jury Final Report**

Dear Judge Roberts:

Penal Code Section 933 and 933.05 provides that 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. The Board of Supervisors, as the governing body of the County of Butte, will provide its response to the 2004-05 Grand Jury Report by the statutory deadline. The past Grand Jury, though, has asked that all departments mentioned within that report provide a direct response to the Presiding Judge. While all legal requirements for a response to the Grand Jury Report have been met by the County of Butte, in the spirit of cooperation, I am providing this direct response to those areas where the Grand Jury sought a response from the Chief Administrative Officer.

One of the roles of the Chief Administrative Officer is to act as the *de facto* chief of staff to the Board of Supervisors. In that role, I directed the preparation of the Board of Supervisors' initial response to the Report. It should not be a surprise, therefore, that my response to the Report, as the Chief Administrative Officer, is very similar to the response provided by the Board of Supervisors.

Starting or growing  
a business? Butte County?

ADVANTAGE  
Butte County  
www.AdvantageButteCounty.com

## BUTTE COUNTY VETERANS MEMORIAL HALLS

### *Grand Jury 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.*

**The respondent partially disagrees with this finding.** The use of veterans' halls varies depending on the veteran group activity at each hall, as well as use by community organizations, government entities, and individuals. The usage of these halls can vary significantly from one to another. Over the last eight years, the annual revenues have averaged \$33,800, or 15% of expenditures. Although this appears to be a huge disparity, the primary purpose of the halls is for the gratuitous use of veterans' organizations, and any other use for fees cannot interfere with the veterans' use.

It should be noted that due to limited funding to maintain County buildings through past years, considerable building maintenance has been deferred for all County-owned buildings. Generally, the amount budgeted to maintain a County building corresponds to its usage. Since the use of the halls is normally limited to weekly or monthly meetings lasting only a few hours, plus occasional fee-based events, less maintenance work is budgeted for the halls compared to other County buildings.

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.*

**The respondent disagrees with this finding.** Under the direction of the Chief Administrative Officer who is the department head of the Chief Administrative Office, the General Services Director is responsible for the maintenance of all County property including the halls. The General Services Director also manages the Veterans' Services Office, which is a part of General Services, and has complete management control 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.*

**The respondent neither agrees nor disagrees with this finding.** The respondent is unable to comment on this finding since it is unclear to what extent of the Grand Jury searched for individuals or groups interested in changes in the halls. However, the County has and will continue to actively seek changes in policy if it will result in greater efficiency and/or effectiveness. An example of a policy change in the halls is illustrated in the response to Finding #4 noted below.

4. *No commission or committee has been formed nor any individual appointed to focus on the issues.*

**The respondent disagrees with this finding.** In 2003, the General Services Customer Service Team evaluated the halls and developed recommendations for improvement. As a result of the Team's analysis and development of a cooperative relationship with the Paradise veterans' organizations, the General Services Director presented a pilot program to the Board of Supervisors on December 16, 2003 for improvements to the management of the Paradise hall. The proposal recommended that at the conclusion of the Paradise pilot program, the Team move forward to analyze the remaining halls and transition management of the halls to General Services Administration. The pilot program is virtually complete, and the General Services will implement this change in other halls.

Additionally, a Memorial Hall Committee has existed at four halls since 1927, and since 1949 at Biggs. The hall committees meet to discuss the use and condition of their respective hall and make requests or recommendations to the County accordingly. As part of the Paradise hall pilot project, General Services staff attend the monthly Paradise Memorial Hall Committee meetings and participate in the discussions.

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.*

**The respondent partially disagrees with this finding.** While the halls are deteriorating, they are not at the point of being uninhabitable. The respondent agrees, however, that renovating the halls and bringing them into compliance with current codes will cost millions of dollars.

It should be noted that the County has millions of dollars of unmet needs as determined by the State Commission on Mandates. While upgrading the halls is a worthy goal, the County has to spend its limited resources on many mandated services and in critical areas such as public safety. The County welcomes any public or private funding that will improve the halls.

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.*

**The respondent agrees with this finding.** The County makes good faith efforts to comply with the Americans with Disabilities Act (ADA) by budgeting various projects each year. However, only the most pressing projects are addressed each year due to limited resources; for Fiscal Year 2005-06, the budgeted amount for ADA projects was \$70,200. Recently, the County secured the federal Community Development Block Grant (CDBG) to make significant progress in meeting ADA requirements in veterans' halls for Fiscal Years 2006-07 and 2007-08. When the CDBG funds are made available, the actual work will begin.

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.*

**The respondent agrees with this finding.**

8. *All of the VMH are far larger than the needs of the veterans groups using them.*

**The respondent partially disagrees with this finding.** As noted earlier, the use of veterans' halls varies depending on the veteran group activity at each hall, as well as use by community organizations, government entities, and individuals.

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.*

**The respondent disagrees with this finding.** Since the decision of April 29, 1929, in *Captain Charles V. Gridley Camp No. 104, United Spanish War Veterans v. Board of Supervisors of Butte County* (1929) 98 Cal.App.585, in which the issue requiring a hall maintain self-sufficiency was struck down by the Third Appellate District Court of California, it has been the practice of the County to allow veterans' organizations gratuitous use of the halls. The County rents the halls to the public to generate revenue to help defray maintenance costs when not being used by veterans. However, these rentals do not generate sufficient revenues to make the halls "self-sufficient."

The County is in the process of evaluating each hall and recommending improvements, which includes increased rental activity. Once ADA improvements have been made through CDBG funding, and other improvements are made through the efforts of the VCE, it is expected that the veterans' halls will be in greater demand for rental by the public.

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.*

**The respondent neither agrees nor disagrees with this finding.** The respondent is unable to comment on this finding since it is unclear to what extent of the Grand Jury searched for individuals or groups with knowledge of state or federal funding. However, the County continues to seek funding from outside sources to make improvements in the halls. As mentioned previously, the County recently obtained a CDBG grant that will allow for use in meeting ADA improvements in Fiscal Years 2006-07 and 2007-08.

### ***Grand Jury 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.*

**The recommendation has been implemented.** The General Services Director is responsible for oversight of the halls and is qualified and responsible to interact with supervisors, commissions and state government in all aspects concerning the halls.

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.*

**The recommendation has been implemented,** insomuch as the County continues to work with the veterans' organizations regarding the use of the halls. The County also has a five, ten and fifteen year Master Maintenance Plan for all county facilities, which includes all of the memorial halls. It should be noted that upgrades necessary to bring each of the halls into compliance with current county codes and federal ADA requirements have been identified.

The sale of any one of the halls is contingent upon the County providing substitute facilities for the veterans' groups, the veterans' acceptance of those facilities or acceptance of any other County proposal regarding their meeting place, or the veterans' abandonment of a hall.

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.*

**The recommendation will not be implemented because it is not reasonable.** The County will continue to work with the veterans' organizations, seek grant funding and form relationships with organizations such as the VCE to address the problems associated with maintenance of the aged facilities with limited funding. However, the County cannot be bound by findings or recommendations from non-elected councils or commissions.

4. *Seek federal and/or state aid in obtaining funds to either upgrade the existing structures, or to fund a move into smaller halls.*

**The recommendation has been partially implemented.** As mentioned previously, the County was able to secure CDGB funds for ADA improvements to the halls in Fiscal Year 2006-07 and in 2007-08. The actual upgrades on these structures will begin when the funds become available. Moreover, the County will continue to seek outside funding and work with veterans' groups to explore the possibility of consolidating the halls and/or finding suitable alternatives.

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.*
  - 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.*

**The recommendation requires further analysis.** Within six months, the County will look into the feasibility of selling the existing halls and purchasing and/or building alternative halls that might better meet the needs of veterans. However, even if new, more functional facilities are obtained, they will be used primarily by the veterans. Rentals of these buildings will not interfere with the use by the veterans.

## DEVELOPMENT AND LAND USE IN BUTTE COUNTY

### ***Grand Jury 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.*

**The respondent agrees with this finding.**

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 Chief Building Official or Planning Manager further jeopardizes a fair decision making process.*

**The respondent disagrees with this finding.** Many jurisdictions have a combined agency of building and planning functions that are overseen by a single individual, who may or may not have a strong background in either technical area. Though it is not the County's preference to have the Director serve in either the Building Official or Planning Manager function, due to retention and recruitment issues, it has been necessary for the Director to serve as such in the past, and may be necessary again in the future. The County Administrator's Office and Human Resources Department will continue to work with the Development Services Department to recruit qualified candidates to fill vacant positions. In addition, the County anticipates results of a Compensation Study by September 1, of which the results and implementation of some portion of the study may help with some of the County's current recruitment and retention issues.

This respondent was not able to find specific citations relating to which authorities granted to the Development Services Director in the Butte County Code the Grand Jury found troublesome.

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.*

**The respondent disagrees with this finding.** The Department of Development Services, in coordination with the County Administrator's Office, is currently reviewing workloads and staffing and resource needs within the Department. The County Administrator's Office has contracted with outside individuals who have expertise in land use systems to lead the review. Review is taking place in the current planning, advanced planning, and building areas. Recommendations will be brought forward to the Board of Supervisors as various stages of the review are completed. Key to this discussion is the fact that many of the shortcomings of the land use system, not just Development Services, are related to vague and conflicting policies. Recommendations will also go to the Board of Supervisors regarding needed policy clarification.

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.*

**The respondent agrees with this finding.**

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.*

**The respondent partially disagrees with this finding.** A variety of factors have led to the current working environment, including inconsistent and/or vague County policies related to land use. It is anticipated that the recommendations that come out of the review discussed in Finding #3 will lead an improved working environment.

The Grand Jury's report calls out many of the things wrong with the land use system. The Development Services Department and all of the other departments in the land use system deserve acknowledgement for the initiatives they have taken to improve the system within the constraints of current County policy and resources.

Land use and development is not the sole responsibility of the Development Services Department. The Department has many partnerships with other departments that play a role in the permitting and approval process as well as agencies outside of Butte County such as the Local Agency Formation Commission (LAFCO). Examples of the partnerships have been specified in the Development Services Department's response to the Grand Jury, and include, but are not limited to, the Land Use Group, Inter-Departmental Review Committee, and the pre-application process.

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.*

**The respondent partially disagrees with this finding.** As indicated by the response from the Development Services Department (see Appendix A), there are a number of factors that lead to erratic application response times. Forces outside of the control of the County as well as some inconsistent policies within the County are key to the erratic nature of the process.

The organizational structure is not the issue that drives the problems within the land use system. Any organization structure without clear and consistent policy and guidance is going to flounder. The organizational structure will not affect the requirements for approval of a project and the more vague and inconsistent the requirements, the longer it will take.

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.*

**The respondent disagrees with this finding.** The Grand Jury seems to imply that employees should not be held accountable for failing to follow direct instructions from superiors or for failing to follow written policies and procedures. A resolution or policy adopted by a 3-2 vote of the Board of Supervisors is just as enforceable as one adopted by a 5-0 vote. Staff does not have the luxury of picking and choosing which policies they will follow. The Board of Supervisors acts by a motion of the body as a whole and not by the statements or actions of individual members of the Board. Although the Board may disagree over the creation and establishment of policy, its actions are the consensus of a majority of the Board. Such is the product of a democratic process and representative government. The poor choices made by DDS employees were of their own volition and not as a result of a divided Board of Supervisors.

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.*

**The respondent agrees with this finding.**

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.*

**The respondent partially disagrees with this finding.** The recruitment and retention of Planning and Building employees is a serious challenge for Butte County for a variety of

reasons, including the ones listed above. Two key issues not mentioned by the Grand Jury include the statewide shortage of qualified professionals who wish to work for public agencies, as well as Butte County's financial inability to compete with other jurisdictions for the limited supply of candidates. As indicated in Finding #2, the County is completing a comprehensive compensation study and will begin negotiating implementation of the results of that study by September 1. The Board anticipates that this study, once implemented, will enable Butte County to be competitive in the employment market place.

It appears that California Code section 31000 was erroneously cited by the Grand Jury. This section limits the extent to which the County can go outside for specialized services, particularly where the work has previously been performed by merit system employees.

*10. Poor telephone answering procedures, organization, and implementation of available technology add many unneeded steps and obstacles to permit processing procedures.*

**The respondent agrees with this finding.**

*11. General Fund availability to subsidize DDS has varied from year to year; this has hindered DDS' ability to resolve pressing problems.*

**The respondent disagrees with this finding.** The General Fund is one source of funding for DDS. The County has implemented numerous fees in the past couple of years that have led to increased appropriations (expenditures) and reduced General Fund subsidy due to increased revenue streams. Overall, DDS has had increased resources over the past six years; the variation in General Fund subsidy is related to increased revenues coming into the Department, not a reduction in resources available to the Department. The history of budgeted resources for DDS over the past six years is illustrated in the following table.

**Development Services Budgets - FY 00-01 through FY 05-06**

<b>Budget Unit</b>	<b>FY 00-01</b>	<b>FY 01-02</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
<b>440.001 - Planning</b>						
Expenditures	\$ 355,339	\$ 416,802	\$ 501,674	\$ 3,812,750	\$ 4,127,099	\$ 4,208,802
Revenues	\$ 57,000	\$ 57,000	\$ 70,902	\$ 2,044,950	\$ 2,799,489	\$ 3,024,682
Net County Cost	\$ 298,339	\$ 359,802	\$ 430,772	\$ 1,767,800	\$ 1,327,610	\$ 1,184,120
<b>440.002 - Building</b>						
Expenditures	\$ 1,475,123	\$ 1,466,226	\$ 1,725,560	\$ -	\$ -	\$ -
Revenues	\$ 1,482,262	\$ 1,466,226	\$ 1,725,560	\$ -	\$ -	\$ -
Net County Cost	\$ (7,139)	\$ -	\$ -	\$ -	\$ -	\$ -
<b>TOTAL</b>						
Expenditures	\$ 1,830,462	\$ 1,883,028	\$ 2,227,234	\$ 3,812,750	\$ 4,127,099	\$ 4,208,802
Revenues	\$ 1,539,262	\$ 1,523,226	\$ 1,796,462	\$ 2,044,950	\$ 2,799,489	\$ 3,024,682
Net County Cost	\$ 291,200	\$ 359,802	\$ 430,772	\$ 1,767,800	\$ 1,327,610	\$ 1,184,120

NOTE: In FY 03-04, the budget units for the Building and Planning Divisions were merged into one budget unit.

*12. The current Butte County CAO and his staff have significant experience 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.*

**The respondent agrees with this finding.** The respondent appreciates the Grand Jury's acknowledgement of the efforts this office is taking, in conjunction with all land use departments, to improve the functionality of the whole land use permit and review process. In turn, the County Administrator would like to acknowledge the hard work of staff in all of the land use departments and their continuing desire to improve the land use system.

- 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.*

**The respondent partially agrees with this finding.** The County Administrator is not aware of practices within the Development Services Department to mislabel building plans, though it appears that it may have been the practice of past employees. If it is found that an employee is mislabeling plans, the Development Services Department will take appropriate disciplinary actions.

### ***Grand Jury 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.*

**The respondent is unable to comment on this recommendation.** This recommendation is directed to the Board of Supervisors and is not within the authority of the County Administrator. Important to note, though, is that if any local item is put on the Special Elections ballot, the County would be held responsible for the costs associated with that item. If the Board decides a ballot is the appropriate way to go, it is fiscally prudent to hold the item until the general election that will be held eight months later.

- 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.*

**The recommendation has been implemented.** The County's Human Resources Department provides an on-going series of training related to this subject. Department Directors, Managers and Supervisors in the Development Services Department have attended in the past and will continue to attend in the future. It is beyond the authority of the County Administrator's Office to require the Board of Supervisors to attend training, but members can be included when training notices are dispersed. It would be up to the individual members to decide whether or not to attend.

The County Administrator agrees that employees' performance should never be discussed in the media or publicly. It appears that in some cases it has been the employee that brings the story to the media and the public, which is out of the County's control.

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.*

**The recommendation has been partially implemented.** Many of the personnel issues that languished on the shelf were due to inconsistent leadership and constant turnover of management in the Department. The County Administrator's Office is aware of the issue and will immediately investigate, with the Department, any charges that surface for the first time more than six months after the alleged date of occurrence.

4. *Identifiable ambiguities and vagueness in development approval criteria should be isolated and corrected. Consultants should be used in this process to expedite solutions.*

**The recommendation has been implemented.** The County Administrator is currently working with outside consultants and the Department of Development Services to identify and take actions to correct any ambiguities and vagueness in development approval. Due to the fact that much of the ambiguity and vagueness may be inherent in the County's policies, it will take time to work through the public process for correcting areas of inconsistency.

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.*

**The recommendation has not yet been implemented, but will be in the future.** Once the Board directs staff to move forward with an update to the General Plan, a calendar of dates, times, and locations of all public meetings related to the General Plan will be included on the County website. It is anticipated that this direction will be given prior to the end of the calendar year.

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

**The respondent is unable to comment this recommendation.** This recommendation is directed to the Board of Supervisors and is not within the authority of the County Administrator.

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.*

**The recommendation requires further analysis.** According to the response from the Development Services Department, it has been working with Code Enforcement staff to

identify the resources that are appropriate and needed, and will enter the meet and confer process with appropriate bargaining units if necessary.

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.*

**The respondent is unable to respond to this recommendation.** As stated by the Development Services Department, staff input has been requested in the past and will continue to be requested in the future regarding office remodels. As with any process, not all staff interests can be met, but all are taken into consideration when decisions are made. Operational details, such as the ones recommended by the Grand Jury, are best decided at the department level

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 PM 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.*

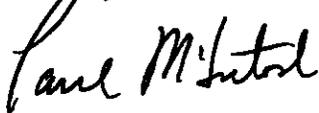
**The recommendation has been implemented.** As stated by the Development Services Department, it has taken steps to improve its telephone answering process and procedures.

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.*

**The recommendation has not yet been implemented, but will be in the future.** The respondent will request that the County's independent auditor review the Development Services Department specifically, as part of the annual audit.

This concludes the response of the Chief Administrative Officer to areas within the Grand Jury Report for fiscal year 2004-05 where they sought comments from the CAO.

Sincerely,



Paul McIntosh  
Chief Administrative Officer



**OFFICE OF COUNTY COUNSEL  
COUNTY OF BUTTE**

25 COUNTY CENTER DRIVE  
OROVILLE, CALIFORNIA 95965-3380  
PHONE (530) 538-7621  
FAX (530) 538-6891

**BRUCE S. ALPERT  
COUNTY COUNSEL**

**ASSISTANT COUNTY COUNSEL  
DAVID M. MCCLAIN**

**CHIEF DEPUTY COUNTY COUNSEL  
ROBERT W. MACKENZIE  
ELIZABETH MCGIE**

**DEPUTY COUNTY COUNSEL  
FELIX WANNENMACHER  
BRAD J. STEPHENS**

August 29, 2005

Hon. Barbara Roberts, Presiding Judge  
Butte County Superior Court  
One Court Street  
Oroville, CA 95965

Re: Response to Final Report of 2004-2005 Grand Jury

Dear Judge Roberts:

Pursuant to Penal Code Sections 933 and 933.05, the Office of County Counsel hereby submits its departmental response to the findings and recommendations of the Grand Jury's 2004-2005 Final Report.

**Finding #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.**

**We agree with this finding.**

**Finding #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.**

**We partially agree with this finding. At the time the Grand Jury investigated the County's handling of Form 700's there was some inconsistency on the part of some departments, particularly with respect to collecting leaving office statements. Since that time, County Counsel has taken steps to ensure that the Human Resources Department and Clerk-Recorder's Office are coordinating their efforts and complying with state law.**

Finding #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.

**We agree with this finding.**

Finding #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.

**We partially agree with this finding. At the time the Grand Jury investigated the County's handling of Form 700's there was a disjuncture between the Clerk-Recorder's Office and the Human Resources Department that resulted in the Clerk-Recorder's Office not receiving all of the information necessary to fulfill its duties under state law. Since that time processes have been put in place to ensure that the Human Resources Department is providing the Clerk-Recorder's Office with the information necessary to comply with its mandated duties under the law.**

Recommendation #1 - We have been advised that this recommendation has been implemented.

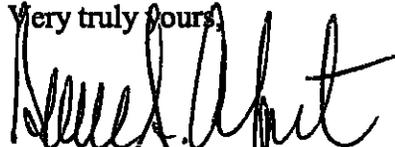
Recommendation #2 - This recommendation will not be implemented as the FPPC has recently confirmed its previous opinion that the County Board of Supervisors is the appropriate code reviewing body and that grand jurors are not under the jurisdiction of the court for purposes of Form 700 filing requirements.

Recommendation #3 - This recommendation has been implemented.

Recommendation #4 - County Counsel is unable to respond to this recommendation as it is directed to the Office of the Clerk-Recorder.

Recommendation #5 - County Counsel is unable to respond to this recommendation as it is directed to the Department of Human Resources and the Office of the Clerk-Recorder.

Very truly yours,



BRUCE S. ALPERT  
Butte County Counsel

cc: Sang Kim, Deputy CAO ✓

GABETHRoberts2.wpd

# *Butte County Department of Development Services*

7 County Center Drive  
Oroville, CA 95965  
(530) 538-7601 Telephone  
(530) 538-7785 Facsimile



ADMINISTRATION \* BUILDING \* PLANNING

August 23, 2005

Honorable Barbara Roberts, Presiding Judge  
Butte County Superior Court  
One Court Street  
Oroville, CA 95965

## DEVELOPMENT AND LAND USE IN BUTTE COUNTY

### GRAND JURY 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.*

**The respondent agrees with this finding.**

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 Chief Building Official or Planning Manager further jeopardizes a fair decision making process.*

**The respondent disagrees with this finding.** Many jurisdictions have a combined agency of building and planning functions that are overseen by a single individual, who may or may not have a strong background in either technical area. Though it is not the Department's preference to have the Director serve in either the Building Official or Planning Manager function, due to retention and recruitment issues, it has been necessary for the Director to serve as such in the past, and may be necessary again in the future. The Department will continue to recruit qualified candidates to fill vacant positions.

It appears that the Grand Jury's concerns regarding authorities granted to the Director of Development Services in Butte County Code are directed at the Board

of Supervisors; therefore the respondent is unable to respond to this portion of the finding.

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.*

**The respondent disagrees with this finding.** The Department of Development Services, in coordination with the County Administrator's Office, is currently reviewing workloads and staffing and resource needs within the Department. The County Administrator's Office has contracted with outside individuals who have expertise in land use systems to lead the review. Review is taking place in the current planning, advanced planning, and building areas. Recommendations will be brought forward to the Board of Supervisors as various stages of the review are completed. Key to this discussion is the fact that many of the shortcomings of the land use system, not just Development Services, are related to vague and conflicting policies. Recommendations will also go to the Board of Supervisors regarding needed policy clarification.

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.*

**The respondent agrees with this finding.**

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.*

**The respondent partially disagrees with this finding.** A variety of factors have led to the current working environment, including inconsistent and/or vague county policies related to land use. It is anticipated that the recommendations that come out of the review discussed in Finding #3 will lead to an improved working environment.

The Grand Jury's report calls out many of the things wrong with the land use system. The Development Services Department and all of the other departments in the land use system deserve acknowledgement for the initiatives they have taken to improve the system within the constraints of current County policy and resources.

Land use and development is not the sole responsibility of the Development Services Department. The Department has many partnerships with other departments that play a role in the permitting and approval process. Examples of the partnerships are listed below.

- The Land Use Group, a relatively new group started in May 2005, is working specifically to address resource and process needs within the land use departments to improve the consistency, quality and accuracy of work related to land use issues. The Land Use Group, currently facilitated by the County Administrator's Office, includes representatives from the Development Services Department, Public Works, Environmental Health, Fire Department, and Agriculture Department.

The Land Use Group meets monthly to discuss systems, processes, and issues, and identifies solutions. The items currently in discussion are full implementation of an electronic permitting/fee collection system throughout the departments involved in land use, which will provide consistent, immediate centralized information to all departments at the same time, as well as applicants. It will speed up the process since staff will no longer have to hunt down paper files or spend the time trying to get in contact with staff from another department.

Additional Geographic Information System (GIS) data is also being identified and created to provide staff with up-to-date information at the tip of their fingers. Members of the Land Use Group are also interviewing other jurisdictions to identify "best practices" that could be duplicated in Butte County.

- The Inter-Departmental Review (IDR) process is another collaborative effort between the land use departments that allows for concurrent review of projects as they work their way through the system. This is key to providing consistent information back to applicants and to problem-solving issues as they arise.
  - Pre-Application conferences are available to applicants to identify whether a proposed project is even viable, prior to an applicant spending the time and money required for a full application process. This is a resource that, though it also costs money, can identify problem areas prior to application. This process is another cooperative effort of Butte County departments that also includes agencies outside of the County, such as LAFCo and special districts.
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.*

**The respondent partially disagrees with this finding.** Building permit application response times are inherently erratic because each application is its own individual process. Outside forces such as State and Federal requirements, adequacy of contractors/engineers/etc. hired by applicants, and other agency approvals that are statutorily required all impact the response time. The land use system has “more cooks in the kitchen” than it ever has in the past, each one adding to the complexity of applications and the ability to move items through in a timely manner.

On the planning side of the Department, inconsistent policies within the County are key to the erratic application response times. Since applications must be found consistent with County policies, and the policies are sometimes inconsistent, many applications bounce up against those very policies and get caught in a never-ending circle of appeals and delays. Some of the inconsistencies lead to requirements that may never be met.

The organizational structure is not the issue that drives the problems within the land use system. Any organization structure without clear and consistent policy and guidance is going to flounder. The organizational structure will not affect the requirements for approval of a project and the “grayer” the requirements, the longer it will take.

If staff are provided with clear Ordinances and Zoning to implement the General Plan, then the number of applications that get held up in the system will be reduced significantly. Staff will be able to say, without question, whether a project is consistent with County policies or not.

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.*

**The respondent disagrees with this finding.** The Grand Jury seems to imply that employees should not be held accountable for failing to follow direct instructions from superiors or for failing to follow written policies and procedures. A resolution or policy adopted by a 3-2 vote of the Board of Supervisors is just as enforceable as one adopted by a 5-0 vote. Staff does not have the luxury of picking and choosing which policies they will follow. The Board of Supervisors acts by a motion of the body as a whole and not by the statements or actions of individual members of the Board. Although the Board may disagree over the creation and establishment of policy, its actions are the consensus of a majority of the Board. Such is the product of a democratic process and representative government. The “*serious employee behaviors as poor choices*

*that were made by DDS employees” where decisions made of their own volition, not as a result of a divided Board of Supervisors.*

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.*

**The respondent agrees with this finding.**

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.*

**The respondent partially disagrees with this finding.** The recruitment and retention of Planning and Building employees is a serious challenge for the Department for a variety of reasons, including the ones listed above. Two key issues not mentioned by the Grand Jury include the statewide shortage of qualified professionals who wish to work for public agencies, as well as Butte County's financial inability to compete with other jurisdictions for the limited supply of candidates. As indicated in Finding #2, the County anticipates results of a Compensation Study by September 1, of which the results and implementation of some portion of the study may help with some of the County's current recruitment and retention issues. The respondent does not believe that the California Code section cited by the Grand Jury is applicable in this discussion.

10. *Poor telephone answering procedures, organization, and implementation of available technology add many unneeded steps and obstacles to permit processing procedures.*

**The respondent partially disagrees with this finding.** The Development Services Department has taken the following steps to improve its telephone answering process and procedures:

- 1) voice mailbox capacity has been increased;
- 2) staff with consistent public interaction during the day have their ringers turned off so that staff are not interrupted while they are meeting with the public, but staff has been directed to listen to and respond to all voice mail within 24 hours of the call;
- 3) staff has been allowed to work overtime, if necessary, to return calls;
- 4) many questions from callers can be answered on the Department's website so, when appropriate, callers are referred to the website, which leads to a reduction in future calls;
- 5) a number of vacant positions have been filled, which positively impacts the ability of all staff to respond to calls (at the time the Grand Jury was

reviewing the Department, it was understaffed due to a number of retirements);

- 6) The Department will continue to review its telephone answering procedures and respond to feedback from the public regarding this issue.

*11. General Fund availability to subsidize DDS has varied from year to year; this has hindered DDS' ability to resolve pressing problems.*

**The respondent disagrees with this finding.** The General Fund is one source of funding for DDS. The County has implemented numerous fees in the past couple of years that have led to increased appropriations (expenditures) and reduced General Fund subsidy due to increased revenue streams. Overall, DDS has had increased resources over the past six years; the variation in General Fund subsidy is related to increased revenues coming into the Department, not a reduction in resources available to the Department. The history of budgeted resources for DDS over the past six years is illustrated in the following table.

**Development Services Budgets - FY 00-01 through FY 05-06**

<b>Budget Unit</b>	<b>FY 00-01</b>	<b>FY 01-02</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
<b>440.001 - Planning</b>						
Expenditures	\$ 355,339	\$ 416,802	\$ 501,674	\$ 3,812,750	\$ 4,127,099	\$ 4,208,802
Revenues	\$ 57,000	\$ 57,000	\$ 70,902	\$ 2,044,950	\$ 2,799,489	\$ 3,024,682
Net County Cost	\$ 298,339	\$ 359,802	\$ 430,772	\$ 1,767,800	\$ 1,327,610	\$ 1,184,120
<b>440.002 - Building</b>						
Expenditures	\$ 1,475,123	\$ 1,466,226	\$ 1,725,560	\$ -	\$ -	\$ -
Revenues	\$ 1,482,262	\$ 1,466,226	\$ 1,725,560	\$ -	\$ -	\$ -
Net County Cost	\$ (7,139)	\$ -	\$ -	\$ -	\$ -	\$ -
<b>TOTAL</b>						
Expenditures	\$ 1,830,462	\$ 1,883,028	\$ 2,227,234	\$ 3,812,750	\$ 4,127,099	\$ 4,208,802
Revenues	\$ 1,539,262	\$ 1,523,226	\$ 1,796,462	\$ 2,044,950	\$ 2,799,489	\$ 3,024,682
Net County Cost	\$ 291,200	\$ 359,802	\$ 430,772	\$ 1,767,800	\$ 1,327,610	\$ 1,184,120

*12. The current Butte County CAO and his staff have significant experience 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.*

**The respondent agrees with this finding.** The respondent would like to acknowledge that the groundwork has been put in place through the hard work of staff in all of the land use departments and their continuing desire to improve the land use system.

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.*

**The respondent partially disagrees with this finding.** It is not the practice of the Development Services Department to mislabel building plans, though it appears that it may have been the practice of past employees. If it is found that an employee is mislabeling plans, appropriate disciplinary actions will be taken.

## **GRAND JURY 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.*

**Respondent is unable to comment on this recommendation.** This recommendation is not within the authority of the Department.

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.*

**The recommendation has been implemented.** The County's Human Resources Department provides an on-going series of training related to this subject. Managers and Supervisors in the Development Services Department have attended in the past and will continue to attend in the future. It is beyond the authority of the to require the Board of Supervisors to attend training.

The Department agrees that employees' performance should never be discussed in the media or publicly. It appears that in some cases it has been the employee that brings the story to the media and the public, which is out of the Department's control.

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.*

**The recommendation has been partially implemented.** Many of the personnel issues that languished on the shelf were due to inconsistent leadership and constant turnover of management in the Department. Management will ensure

that performance reviews are done in a timely manner and that personnel issues are addressed as they arise.

4. *Identifiable ambiguities and vagueness in development approval criteria should be isolated and corrected. Consultants should be used in this process to expedite solutions.*

**The recommendation has been implemented.** The County Administrator is currently working with outside consultants and the Department of Development Services to identify and take actions to correct any ambiguities and vagueness in development approval. Due to the fact that much of the ambiguity and vagueness may be inherent in the County's policies, it will take time to work through the public process for correcting areas of inconsistency.

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.*

**The recommendation has not yet been implemented, but will be in the future.** Once the Board directs staff to move forward with an update to the General Plan, a calendar of dates, times, and locations of all public meetings related to the General Plan will be included on the County website. It is anticipated that this direction will be given prior to the end of the calendar year.

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

**The respondent cannot comment on part of the recommendation.** The portion of the recommendation related to adopting a moratorium is directed to the Board of Supervisors and beyond the authority of the Department. The Department is currently working with the County Administrator's Office to identify resources needed to bring workloads to a more manageable level in the Planning Division and to begin the update process for the General Plan once the Board directs staff to do so.

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.*

**The recommendation requires additional analysis.** The Department of Development Services has already met with Code Enforcement staff to identify

the resources that are appropriate and needed. The Department is waiting to hear if the meet and confer process with appropriate bargaining units is necessary.

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.*

**This recommendation has been implemented.** Staff input has been requested in the past and will continue to be requested in the future regarding office remodels. As with any process, not all staff interests can be met, but all are taken into consideration when decisions are 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 PM 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.*

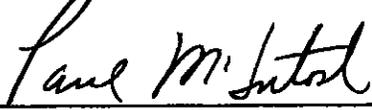
**This recommendation has partially been implemented.** As stated in Finding #10, the Development Services Department has taken the following steps to improve its telephone answering process and procedures:

- 1) voice mailbox capacity has been increased;
- 2) staffs with consistent public interaction during the day have their ringers turned off so that that staff are not interrupted while they are meeting with the public, but staff has been directed to listen to and respond to all voice mail within 24 hours of the call;
- 3) staffs have been allowed to work overtime, if necessary, to return calls;
- 4) many questions from callers can be answered on the Department's website so, when appropriate, callers are referred to the website, which leads to a reduction in future calls;
- 6) a number of vacant positions have been filled, which positively impacts the ability of all staff to respond to calls (at the time the Grand Jury was reviewing the Department, it was understaffed due to a number of retirements).
- 6) The Department will continue to review its telephone answering procedures and respond to feedback from the public regarding this issue.

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.*

**This recommendation has not yet been implemented, but will be in the future. The Department will work with the County Administrator's Office and the Auditor's Office to include a specific review of the Development Services Department by the County's independent auditor as part of the annual audit.**

Respectfully Submitted by

A handwritten signature in black ink that reads "Paul McIntosh". The signature is written in a cursive style with a large initial "P".

Paul McIntosh, Interim Development Services Director

# GENERAL SERVICES ADMINISTRATION

## CHIEF ADMINISTRATIVE OFFICE

### COUNTY OF BUTTE

3-A COUNTY CENTER DRIVE  
OROVILLE, CA 95965-3334  
Telephone (530) 538-7261  
Fax: (530) 538-6760



WILLIAM S. CURRY  
GENERAL SERVICES DIRECTOR

August 24, 2005

Honorable Barbara Roberts, Presiding Judge  
Butte County Superior Court  
One Court Street  
Oroville, CA 95965

Re: General Services Director's Response to the 2004-2005 Grand Jury Final Report

Honorable Judge Roberts,

Pursuant to California Penal Code Section 933 et seq, the following constitutes the official departmental response to the Butte County Grand Jury Final Report for fiscal year 2004-05, as it pertains to General Services Divisions.

Although the Grand Jury requested a response from the Veterans Services Officer regarding the veterans memorial halls, the Veterans Services Officer is not in a position to respond in detail to the issues raised by the Grand Jury. It is the General Services Director who oversees operation of all county buildings, and has intimate knowledge regarding the use, maintenance and future of those buildings. The Veterans Services Officer presently manages the rentals for the Biggs, Gridley, Chico and Oroville halls, while General Services Administration manages the Paradise hall. General Services Administration is currently in the process of assuming management duties of all of the halls.

Therefore, it is incumbent upon me to issue a response to the Grand Jury regarding the memorial halls, and in compliance with the Grand Jury's request, I am hereby submitting that response directly to you.

### **BUTTE COUNTY VETERANS MEMORIAL HALLS**

#### ***Grand Jury 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.***

**Respondent agrees with the finding; however, the finding requires clarification. Use varies from hall to hall, depending on the veteran group activity at each hall, as well as use by community organizations, government entities and individuals. This use can be somewhat active and regular at one hall while nearly non-existent at another. Over the last eight years, the annual revenues have averaged \$33,800, or 15% of expenditures. Although this appears to be a huge disparity, it must be understood that the primary purpose of the halls is for the gratuitous use of veterans' organizations, and any other use for fees cannot interfere with the veterans' use.**

**The upkeep of the halls by General Services - Facilities Services Division is in direct proportion to hall use. Due to limited funding to maintain county buildings through past years, considerable building maintenance has been deferred for all county-owned buildings. As with all county buildings, the more a facility is used, the more maintenance, repair and renovation it receives, and therefore buildings used on a regular basis are allocated a larger portion of the budget. Since the use of veterans' halls is normally limited to weekly or monthly meetings lasting only a few hours, plus occasional fee-based events, less maintenance work is budgeted for the halls.**

- 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.*

**Respondent disagrees with the finding. Under the direction of the Chief Administrative Officer who is the department head of the Chief Administrative Office, the General Services Director is responsible for the upkeep and maintenance of county property through its Facilities Services Division and is therefore in complete charge of maintenance of the halls. The General Services Director is also in charge of managing the Veterans' Services Office and Administration division of General Services, and is therefore in complete charge of managing the halls. Specifically, the management of the Chico, Oroville, Gridley and Biggs halls is handled through the Veterans Services Office, and the management of the Paradise hall is handled through General Services Administration. Presently, the management structure for the halls is undergoing a transition whereby, eventually, all halls will be under the management of General Services Administration. The General Services Director presented a proposal to the Board of Supervisors on December 16, 2003, for a pilot program with the Paradise hall to begin this transition and to improve use of the halls. The pilot program is now completed; however, it was delayed in FY 04/05 due to lack of personnel to complete all the required tasks. This personnel shortage has been remedied for FY 05/06 and the transition of management for the veterans' halls to General Services Administration is now underway. A report on the results of the pilot program and proposal for the transition will come before the Board of Supervisors on August 30, 2005.**

- 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.*

**Respondent agrees with the finding. The General Services Director realizes that to change policy at the state and federal levels would require additional resources that are not presently available to the county. Commitment toward such an effort by county staff would fall under the direction of the Board of Supervisors. As for policy change or disruption of the status quo at the local level, the**

**General Services Director initiated a pilot program in 2003 for improved use of the halls that continues to date. Any changes instituted in the operation of the veterans' halls, however, must comply with current local, state and federal rules and regulations regarding the halls, as well as have the consent of the veterans' organizations. It is the position of General Services that a cooperative relationship can be developed between the county and the veterans' organizations, such as that which exists between General Services and the Paradise hall veterans' organizations, to address the issues and work toward mutually beneficial resolution of the problems.**

- 4. No commission or committee has been formed nor any individual appointed to focus on the issues.*

**Respondent disagrees with the finding. The General Services Customer Service Team, whose purpose it is to analyze service delivery in General Services and recommend improvements to that service delivery, was instructed by the General Services Director in 2003 to evaluate the halls and develop recommendations for improvement. As a result of the Team's analysis and development of a cooperative relationship with the Paradise veterans' organizations, the General Services Director presented a pilot program proposal to the Board of Supervisors on December 16, 2003, for improvements to the management of the Paradise hall. The proposal recommended that at the conclusion of the Paradise pilot program, the Team move forward to analyze the remaining halls and transition management of the halls to General Services Administration. Although the pilot program was completed, the lack of available staff in FY 04/05 delayed follow-through at the other veterans' halls. The General Services staffing was supplemented for FY 05/06 such that follow-through at the other veterans' halls may now commence. A report on the results of the pilot program and proposal for the transition will come before the Board of Supervisors on August 30, 2005.**

**Additionally, a Memorial Hall Committee has existed at four halls since 1927, and since 1949 at Biggs. The county supervisor for each district in which a hall resides is an ex-officio member of that committee. The hall committees meet to discuss the use and condition of their respective hall and make requests or recommendations to the county accordingly. As part of the Paradise hall management duties, General Services staff attend the monthly Paradise Memorial Hall Committee meetings and participate in the discussions.**

- 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.*

**Respondent agrees with the finding except for the halls deteriorating to the point of being uninhabitable and the lack of long range planning. All halls are habitable, but it most certainly will cost several million dollars to renovate and bring them into compliance with current codes. Four of five halls are nearly 80 years old. The newest hall is 56 years old. The County Facilities Services Division annually requests funding to maintain and upgrade the halls in accordance with its five, ten and fifteen-year Facilities Maintenance Master Plan; however, it is county practice to put the majority of the scarce funding into the facilities that are used regularly by a large number of people. Year after year, with halls used only for weekly or monthly veterans meetings lasting only a few hours and an occasional fee-based event, funding for major maintenance or renovation**

has by necessity been directed toward facilities that are occupied forty-plus hours per week. Consequently, veterans' hall maintenance projects get deferred to a greater extent than for other county buildings.

- 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.*

Respondent agrees with the finding. The County Facilities Services Division has attempted to address the Americans with Disabilities Act (ADA) issues as funding allows. Every year funds are requested to address ADA projects, however only the most pressing projects are budgeted. Lack of ADA compliance at each hall varies. Some halls require major expenditures while others require relatively minor expenditures. Again, use of the facilities determines the allocation of those ADA funds. While there may be "a tremendous number of living disabled veterans", the percentage of disabled veterans who use the halls compared to the number of disabled veterans who use other county facilities does not justify diverting ADA funds away from other county buildings to the halls. It is uncertain whether the lack of ADA compliance at any of the halls has prevented their use by any disabled veteran. If this, in fact, has occurred, no one has communicated it to the county. The county did apply for a Community Development Block Grant (CDBG), and funding was obtained to make significant progress in meeting ADA requirements in FYs 06/07 and 07/08.

- 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.*

Respondent agrees with the finding. Butte County has an excessive number of halls per capita compared to other California counties. However, the lack of funds to construct alternative venues combined with the need to obtain the concurrence from veterans' groups to discontinue operations at existing halls leaves repair of the existing facilities as the only viable alternative. Since county tax dollars are not available for significant changes, the county will continue to seek grants similar to the CDBG funding that was obtained, and to work with organizations such as the Valley Contractors' Exchange (VCE) in Chico that has expressed a willingness to undertake limited repair and renovation projects at the Chico Veterans' Hall on a volunteer basis at no cost to the county. In cooperation with the veterans' organizations, it is hoped that several additional options can be explored and solutions satisfactory to all parties for making the necessary repairs and changes can be found. Some veterans' organizations do contribute to the upkeep of the veterans' halls, and the county intends to encourage the veterans' organizations to increase such contributions.

- 8. All of the VMH are far larger than the needs of the veterans groups using them.*

Respondent agrees with the finding. Since the dedication of the Paradise, Gridley, Oroville and Chico halls in 1927 and the Biggs hall in 1949, the communities in which they reside have changed dramatically. According to California Military & Veterans Code, which governs the relationship

between the county and the veterans' organizations regarding the halls, Section 1262 states the "county may... provide and maintain buildings... for the use or benefit of one or more veterans' associations." And "whenever a county has... provided and maintained any building... for the use or benefit of one or more veteran's associations, ...the provision of that facility and its acceptance by the veterans' association constitutes a dedication of that property to a public purpose, and the county may not revoke that dedication, so long as the veterans' association has not violated the terms and conditions of the dedication, *unless it dedicates substitute facilities or unless the veterans' organization has either consented to the proposed county action or has abandoned its use of the facilities.*" If the county is willing and able to dedicate acceptable substitute facilities, and if the veterans' groups are amenable to substitute facilities that are more suitable to their needs, it may be possible to come to a satisfactory resolution.

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.*

Respondent disagrees with the finding. Since the decision of April 29, 1929, in Captain Charles V. Gridley Camp No. 104, *United Spanish War Veterans v. Board of Supervisors of Butte County*, in which the issue requiring a hall maintain self-sufficiency was struck down by the Third Appellate District Court of California, it has been the desire of the county to allow veterans' organizations gratuitous use of the halls for their patriotic, fraternal and benevolent associations and for fund raising activities whose proceeds support those benevolent associations. The county rents the halls to the public to generate revenue to help defray maintenance costs. However, these incidental rentals must not interfere with the veterans' use, and must not conflict with the purpose for which the hall was dedicated. The challenge is to generate revenue without commercializing a municipal facility, work around the scheduled use of veteran organizations, keep rates competitive with like facilities and rent to only those organizations or individuals whose function is appropriate for a veterans' memorial hall while mindful of the surrounding neighborhood. These restrictions limit the amount of revenue that can be generated by any one hall and also limits the amount of marketing the county can do to promote the halls. However, it is the desire of the General Services Director to utilize the halls for rentals as much as possible to defray as much cost as possible, while maintaining the purpose for which the halls were erected and dedicated. The General Services Customer Service Team is in the process of evaluating each hall and recommending improvements, which includes increased rental activity. Once ADA improvements have been made through CDBG funding and other improvements are made through the efforts of the VCE, it is expected that the veterans' halls will be in greater demand for rental by the public.

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.*

Respondent agrees with the finding at the time that the Grand Jury looked into this matter. The General Services Director and staff had unsuccessfully conducted weekly searches for grant monies for upgrading the halls, and have done so continually for the past four years without success. However, with the assistance of the Chief Administrative Office, CDBG grant funding was obtained for use in meeting ADA requirements in FYs 06/07 and 07/08.

### ***Grand Jury 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.*

**The recommendation has been implemented. The General Services Director, as agent to the Board of Supervisors, is responsible for oversight of the halls, and is qualified and responsible to interact with supervisors, commissions and state government in all aspects concerning the halls.**

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.*

**This recommendation has been implemented, insomuch as: the General Services Customer Service Team has been, and will continue to, work with the veterans' organizations regarding the use of the halls; the County Facilities Services Division already utilizes a five, ten and fifteen year Master Maintenance Plan for all county facilities, which includes all of the memorial halls; and upgrades necessary to bring each of the halls into compliance with current county codes and federal ADA requirements have been identified. The sale of any one of the halls is contingent upon the county providing substitute facilities for the veterans' groups, the veterans' acceptance of those facilities or acceptance of any other county proposal regarding their meeting place, or the veterans' abandonment of a hall.**

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.*

**The county will continue to work with the veterans' organizations, seek grant funding and form relationships with organizations such as the VCE to address the problems associated with maintenance of the aged facilities with limited funding. However, the county cannot commit to be bound by the findings and recommendations of a council/commission that could conceivably find that unacceptable maintenance of other county facilities be deferred to accommodate the little used veterans' halls.**

4. *Seek federal and/or state aid in obtaining funds to either upgrade the existing structures, or to fund a move into smaller halls.*

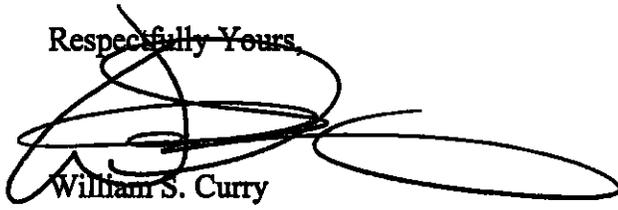
**The recommendation has been implemented. The General Services Director and staff conduct weekly searches for grant monies for upgrading the halls or obtaining new facilities, and have done so continually for the past four years. Because the needs of the halls require millions of dollars of "bricks and mortar" type funding that is rarely available through grants, General Services staff has been unable to locate a suitable grant. However, the county was able to secure a reservation of CDGB funds for ADA improvements to the halls in 2006-07 in the amount of \$259,160, and in 2007-08 in the amount of \$497,320. Although the county has been awarded the funds, they are in "reserve" pending allocation upon availability.**

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.*
- 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.*

**The sale of the existing halls is not possible at this time, and is not expected to be possible for many years. The halls cannot be sold without the concurrence of the veterans' organizations. That concurrence will not be forthcoming unless a suitable alternative facility is provided. There is no available funding for such a suitable alternative facility. Should it become possible to sell one or more of the halls in the future, the county would work with the veterans' organizations to following the recommendations outlined in 5.a. through 5.f. in the Grand Jury report.**

~~Respectfully Yours,~~



William S. Curry  
General Services Director

cc: Paul McIntosh, CAO



# Butte County

LAND OF NATURAL WEALTH AND BEAUTY

## HUMAN RESOURCES DEPARTMENT

County Administration Building  
25 County Center Drive  
Oroville, California 95965-3387  
Tel: (530) 538-7651 • Fax: (530) 538-7790  
Recruitment Hotline Tel: (530) 538-7653

August 23, 2005

Honorable Barbara Roberts  
Presiding Judge  
Superior Court, County of Butte  
One Court Street  
Oroville, CA 95965

BUTTE COUNTY  
ADMINISTRATION

AUG 29 2005

OROVILLE, CALIFORNIA

Re: Response to 04-05 Grand Jury Final Report

Dear Judge Roberts:

In accordance with Penal Code Sections 933 and 933.5, the Human Resources Director submits the following response to the findings and recommendations of the Grand Jury's Final Report for TY 2004-05 pertaining to the department:

---

### Section Titled: "The Fair Political Practice Commission, Butte County, and You"

#### Findings - Responses

1. Agree.
2. Partially disagree. The system in place at the time of the Grand Jury review contained inconsistencies and did not include a coordination of effort between the County Clerk's office and the Human Resources Department; however, as outlined in the Grand Jury's Report under "New Human Resources Procedure," the two departments have coordinated their efforts and established a process to ensure the appropriate parties are notified of their filing responsibility.
3. Agree; as stated above, processes have been implemented to correct this.
4. Agree; as stated above, processes have been implemented to correct this.

### **Recommendations - Responses**

1. Not applicable to Human Resources Department.
2. Not applicable to Human Resources Department.
3. Recommendation implemented. This information is currently being included in new hire paperwork and the recommendation that job specifications be modified to include Form 700 submission responsibilities has been accomplished with regard to those positions where this is a requirement. This component has been included in the minimum qualifications portion of the relevant job specifications.
4. Not applicable to Human Resources Department.
5. Recommendation has been implemented. A report of currently staffed positions is now being forwarded to the County Clerk on a routine biweekly basis. If it is determined that information is required in a format different than current computer programs allow, additional options for automation will be explored within the fiscal year of 2005-06

### **Section Titled: "Development and Land Use in Butte County: Planning Privation in the Land of Natural Wealth and Beauty"**

#### **Findings - Responses**

Findings 1 through 8 are not applicable to Human Resources Department.

9. With regard to recruitments to fill vacancies in the Department of Development Services, the Human Resources Department is committed to assisting Development Services and making this effort a priority.

Findings 10 through 13 are not applicable to Human Resources Department.

#### **Recommendations – Responses**

1. Not applicable to Human Resources Department.
2. The Director of Human Resources is interested in pursuing mandatory training for all managers and supervisors on general personnel processes including annual performance reviews, managing attendance, and progressive discipline; all of which include information on the confidentiality of personnel information.
3. The Human Resources Department supports this recommendation to the extent that individual departments should be held responsible for tracking whether or not

departmental managers and supervisors are in compliance. The Department of Human Resources sends all departments a list of review dates on a biweekly basis.

Recommendations 4 through 6 are not applicable to Human Resources Department.

7. The request to provide uniform clothing has been provided to the Human Resources Department who will be submitting the issue to meet and confer with the affected bargaining units.

Recommendations 8 through 13 are not applicable to Human Resources Department.

14. With regard to the establishment of minimum qualifications for all classifications allocated within the Development Services Department, this has been accomplished through the County's recent classification study. The Human Resources Department is dedicated to assisting the department in filling any vacancies in a timely manner.

Thank you for the opportunity to present you with this response to the Grand Jury's 04-05 Final Report.

Sincerely,



Jeanne Gravette  
Director-Human Resources

cc: Paul McIntosh, Chief Administrative Officer ✓  
Board of Supervisors



# BUTTE COUNTY PROBATION DEPARTMENT



**JOHN M. WARDELL**  
Chief Probation Officer  
E-Mail:  
jwardell@buttecounty.net

42 County Center Drive  
Oroville, California 95965  
(530) 538-7309  
Fax: (530) 538-6826

**STEVE ELLEN**  
Asst. Chief Probation Officer  
E-Mail:  
sellen@buttecounty.net

August 11, 2005

Honorable Barbara Roberts, Presiding Judge  
Butte County Superior Court  
1 Court Street  
Oroville, CA 95965

Dear Judge Roberts,

The following is in response to a Grand Jury Final Report, dated 2004-2005, pages 94, 95.

Pursuant to:  
Section 933(c)

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

Section 933.05(b)

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

The recommendation has been implemented, with a summary regarding the implemented action.

The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

The recommendation requires further analyses, with an explanation and the scope and parameters of an analysis or 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. The timeframe shall not exceed six months from the date of publication of the grand jury report.

The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

The following response addresses the Grand Jury's findings, and Recommendations, under the heading of BUTTE COUNTY JUVENILE HALL.

**Findings:**

1. 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.

This Respondent disagrees partially with the findings. Although the Butte County Juvenile Detention Center was built to house 120 minors, six pods, this number is pro-rated over a 25 year period. In December of 1998, Jay Farbstein and Associates provided the County with a Needs Assessment as a grant requirement for receiving funds made available by the State Board of Corrections. Farbstein wrote: "we project the current need for 80 detention beds and 60 commitment beds". The need for detention beds to increase to 120 beds by the year 2020 not counting any additional commitment beds that will be needed.

At this time the Probation Department would need 20 additional beds, one Pod, bringing the total to 80 beds, not the 120 beds, 6 pods, as reflected within the report. The County Executive Office is in agreement with this need.

**Recommendations**

None required

Submitted by:

John M. Wardell  
Chief Probation Officer

# APPENDIX B

## ELECTED DEPARTMENT HEAD RESPONSES

David A. Houser,  
Butte County Auditor-Controller  
Response to the Grand Jury Final Report 2004-2005

As required by Penal Code 933 and 933.05, this letter is in response to the final report of the 2004-2005 Butte County Grand Jury. The Auditor-Controller, Assistant Auditor-Controller, the Supervisors of Accounting and the Auditor-Controller's Payroll Staff wish to thank the Grand Jury for the time and attention provided to the Kronos Electronic Timekeeping System. It was a pleasure to provide a review of the need for the electronic timekeeping product, the areas considered for the "Request for Proposal" and then the subsequent selection of the solutions provided with the Kronos Workforce Central, the progress with the implementation to date and the future planned implementation methodology. The Kronos Oversight Representatives, consisting of the Auditor-Controller's Administrative Services Officer, the Director of Information Systems, and a Chief Deputy of the Administrative Officer, have reviewed and considered all of the findings and recommendations in future deployment planning.

**Background**

To add clarification to the summary of background information provided in this 2004-2005 Grand Jury Report, the Board approved funding of \$220,000.00 in the FY 02-03 budget to initiate the investigation, acquisition and initial implementation of a timekeeping system. Upon completion of these initial meetings and the development of an implementation strategy, the estimated project costs were \$761,000.

**Findings**

1. The impact of the Kronos Workforce Central Timekeeping System (WCTS) on Butte County government is significant.

The respondent agrees with this finding.

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.

The respondent agrees with this finding.

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.

The respondent agrees with this finding.

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.

The respondent agrees with this finding.

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 the individual county departments. In some cases, initial contact at the departmental level was only done at the time of system implementation, which likely contributed to delay.

The respondent disagrees with this finding. Kronos is a propriety system, and as such, the core system cannot be tailored to meet unique departmental needs up front; rather, its initial development was to meet the rules and requirements set forth in the 9 different bargaining unit's Memorandum of Understandings and the Personnel Rules in order to add consistency and accuracy in time reporting. Labor tracking needs are secondary for the various departments and cannot be built until we have fully deployed all departments and structured these needs in a logical data scheme. Greater involvement up-front by end-users would have bottlenecked and lengthened the deployment efforts.

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.

The respondent disagrees with this finding. The additional \$200,000 had been budgeted for Kronos Product enhancements consisting of product licenses and for enhancements. These newly developed features were provided to all County departments and then to the Executive Oversight Committee for discussion. As a result of these meetings, the product enhancements were overwhelmingly agreed to, negotiated, and added to the overall deployment plan.

7. Kronos training of county employees consisted of instructing them how to train, but not how to use the system.

Respondent disagrees with this finding. At the start of implementation, we implemented the "Train the Trainer" approach as suggested by the vendor. This training was developed and given by a Kronos Trainer. This training was attended by "trainers" and others who had never trained before. The results were not what we had hoped for or planned. Our payroll staff developed our own in-house power point training and, with the assistance of the Department of Employment and Social Services IS staff, we added voice overture. This training presentation was made available to all employees to access on-line

and at their own pace and time schedule. The Auditor's staff and Kronos Team staff have also conducted lab training for the end users, in addition to the on-line presentation. Payroll staff were available to assist county employees with user questions and training.

### **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.

The recommendation will not be implemented because it is not warranted. The interface between the Kronos WCTS and the "Pentamation System" was incorrectly stated. There is no interface with the Pentamation Accounts Payable System. This interface is with the Pentamation HR/Payroll module and with the addition of the Kronos Program Manager Tool and development by our IS and Kronos staff, this interface is seamless.

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.

This recommendation, as stated, has been in effect from the date we entered into the project. We are and have been working with the IS Coordinator, Information Systems Department, Administration, Human Resources and the Kronos Oversight Committee. Although there have been some impacts due to staff vacancies and support for ongoing operations, the most significant deterrent has been the programming and refining of County MOU rules and applications not being consistently applied by county employees and departments. A staff position has been assigned to the Information Systems Department to work closely on the integration of the WCTS with existing systems.

3. Any additions or adjustments to the WCTS should require coordination between the office of the Auditor-Controller and the users before implementation.

This recommendation has been the practice of our payroll section. As new Kronos WCTS product features are introduced, staff meets with the departments to configure their business process into the product and then assist with training and deployment to the end users. Some problems arise from the incorrect application of current MOU rules at the departments that required additional training and modification of individual operating procedures by departments.

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.

The recommendation requires further analysis as no one on the Kronos Implementation Team or the Kronos Oversight groups are aware of any such report writing problem. This report is the first presentation of any concern. The report writer used by the Kronos Software is Crystal Report Writer, a very user friendly and industry-wide leading report writing system. On August 18, 2005, the users of the timekeeping system departmental payroll representatives met for refresher training and updates. No users at this meeting indicated a problem in this area.

5. Insist on more productive customer support from Kronos so that the WCTS can be used as efficiently as possible.

This recommendation has been implemented. The County's Project Manager for Kronos has been working with Kronos to improve support and service provided from Kronos. Working with Division Managers within the Kronos Corporation, the project manager has been able to successfully address a number of the customer service issues, even to the extent of having the Kronos Project Manager replaced. The County's Kronos Implementation Team has attended almost all of the configuration training offered by Kronos and are able to implement the system phases.

Open series financial software and Auditor-Controller procedures  
Grand Jury response

**Findings**

1. Fiscal limitations are a factor in the development and maintenance of Butte County computer systems.

The Respondent agrees. Fiscal limitations and time constraints are two major factors in the development and maintenance of Butte County computer systems. Over the last several years, it has been necessary to reduce our staff levels to meet department budget levels. These position reductions have impacted every aspect of our operations, including the development and maintenance of county computer systems. In addition, to reduction in staff positions and operation supplies and equipment, we have had to deal with a significant number of staff vacancies due to worker's injuries and illnesses.

2. Communication between the 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.

The respondent agrees with this finding. In addition to the items mentioned in our response to item 1 above, the Auditor-Controller's office has little space available to utilize for training our own staff, let alone other department staff. Also, the IS facilities for training have not been available for quite some time; in part, due to Kronos training sessions and in part due to the previously mentioned time constraints. There has been instruction given for those individuals in various departments requesting such on a one-on-one basis.

3. Computer system security is vulnerable in that signed on, but unattended, terminals are accessible by unauthorized personnel.

The Respondent agrees. The Auditor-Controller's department is working with the IS Department and Administration to implement an Enterprise-wide computer system that will enable the Information Systems department to oversee the hardware and security administration of the Finance System and create the necessary security to address access issues and unattended terminals.

**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.

The respondent agrees.

2. A process whereby unattended computer terminals lock and require users to re-authenticate before further use should be implemented.

The respondent agrees. Please see above response to #3 in Findings.



---

CANDACE J. GRUBBS  
COUNTY CLERK-RECORDER/REGISTRAR OF VOTERS  
25 County Center Drive, Suite I, Oroville, CA 95965-3375  
Phone: (530) 538-7761 Fax: (530) 538-6853  
Website: <http://clerk-recorder.buttecounty.net>

---

CLERK-RECORDER DIVISION  
Rosemary L. Dickson  
Assistant County Clerk-Recorder

ELECTIONS DIVISION  
Laurie Cassady  
Assistant County Clerk-Registrar of Voters

August 29, 2005

The Honorable Barbara Roberts, Presiding Judge  
Superior Court, County of Butte  
One Court Street  
Oroville, CA 95965

**Re: Response to the FY 2004-2005 Grand Jury Final Report**

Dear Judge Roberts:

In accordance with Penal Code Sections 933 and 933.5, the County Clerk-Recorder/Registrar of voters submits the following response to the findings and recommendations of the Grand Jury's Final Report from FY 2004-05 pertaining to the department.

I would like to express my appreciation to the grand jurors for their commitment of time and effort to thoroughly understand the election process by attend training seminars for precinct officers and also the coordinated effort to observe voting at 22 polling sites on Election Day. My office is dedicated to providing comprehensive training which is reflected in the observance of election laws and procedures at the precincts.

**Butte County Clerk-Recorder**

**Grand Jury 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.*

*Grant 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 elections.*

**Response:** The respondent agrees with this finding.

### **The Fair Political Practice Commission, Butte County, and You**

#### **Grand Jury 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.*

**Response:** The respondent agrees with this finding.

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.*

**Response:** The respondent partially disagrees with this finding. Some inconsistencies did exist due to the lack of notification from Human Resources regarding any new hires or terminations in positions designated in the Butte County Conflict of Interests Code. Several months ago, a notification method was developed by the staff of Human Resources and the County Clerk-Recorder which is efficient and ensures that the County Clerk-Recorder's office is in compliance with the Political Reform Act.

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.*

**Response:** The respondent agrees with this finding. The Human Resources Department has implemented procedures to notice the payroll representative of each

county department and the County Clerk-Recorder on a bi-weekly basis of any activity (new hires, promotions, terminations, etc.) within the positions designated in the Butte County Conflict of Interests Code.

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.*

**Response:** The respondent disagrees partially with this finding. At the time of the Grand Jury investigation, the process of filing these statements was inefficient and ineffective. Subsequent coordination with the Department of Human Resources, as stated above, is allowing the Clerk-Recorder to maintain compliance with regulations.

Grand Jury 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.*

**Response:** The respondent feels the recommendation has not been implemented. The Clerk of the Board of Supervisors should serve as filing officer for all positions appointed by the Board of Supervisors thereby ensuring that the designated filers are notified of their responsibilities timely. At this time, notification of Board of Supervisors appointments is not consistently transmitted to the Clerk-Recorder.

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" (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.*

**Response:** The recommendation has not yet been implemented. Presently, the Jury Commissioner's office notifies the Clerk-Recorder's office of any activity (new appointments or resignations) concerning the Grand Jurors. The County Clerk-Recorder supplies forms and instructions to the Jury Commissioner's office for

distribution to the Grand Jurors. The Jury Commissioner's office accepts the statements from the Grand Jurors and forwards them to the Clerk-Recorder's office for filing. The Clerk-Recorder's office then pursues any follow up measures that are necessary (i.e., late or non-filing).

- 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.*

**Response:** The respondent is unable to comment on this recommendation, although does believe the recommendation has been implemented by the appropriate departments.

- 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.*

**Response:** The recommendation has been implemented. The Clerk-Recorder has conducted a training session with the department payroll representatives. Each department was supplied with an instruction manual detailing their function in the process of filing the Statement of Economic Interests (Form 700). Training sessions with payroll representatives will be scheduled on an annual basis to maintain compliance.

- 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.*

**Response: The recommendation has been implemented.** The Human Resources Department is forwarding a report to the Clerk-Recorder on a biweekly basis. The Clerk-Recorder will follow up with Human Resources to ensure that the annual report of currently staffed designated positions is provided by January 31<sup>st</sup> of each year.

Sincerely,



Candace J. Grubbs  
County Clerk-Recorder/Registrar of Voters

CJG:jm

cc: Board of Supervisors  
Paul McIntosh, Chief Administrative Officer



# BUTTE COUNTY SHERIFF

**PERRY L. RENIFF**  
SHERIFF-CORONER

July 12, 2005

The Honorable Barbara Roberts  
Presiding Judge  
Butte County Superior Court  
One Court Street  
Oroville CA 95965

Re: Response to the 2004-2005 Grand Jury Findings

Dear Judge Roberts:

I agree with the findings of the Grand Jury's report on the Butte County Jail, at least that portion of which relates to the facilities and/or jurisdiction of the Butte County Sheriff's Office.

The inadequacy of the women's section of the Jail has been a long standing concern to this Office, the Grand Jury notwithstanding. We have made every upgrade within our means to improve this facility and it appears that the Grand Jury recognizes this.

As you are well aware, many of the systemic problems in the referenced facility find their genesis in the overcrowding that permeates our corrections environment. That emphasizes the importance of such programs as SWAP, ESP and Pre-trial Release. We look forward to your continued support in augmenting these areas of need.

The Grand Jury is also cognizant of the "professional and efficient manner" in which the jail is operated and maintained. We appreciate this recognition. Lastly, if funding is ever available to construct a new facility we will certainly welcome that opportunity. In the foreseeable future however, we will continue to operate all of our custody facilities in as safe, orderly and professional a manner as possible.

Sincerely,

Perry L. Reniff  
Sheriff-Coroner

PLR:if

- cc: Board of Supervisors
- Bill Connelly
- Jane Doan
- Mary Anne Howx
- Curt Josiassen
- Kim Yamaguchi
- Paul McIntosh, Chief Administrative Officer

**Mary Anne Houx, Butte County Board of Supervisors:  
District 3**

**Individual response:**

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

9-19-05



# MARY ANNE HOUX

SUPERVISOR, THIRD DISTRICT

196 MEMORIAL WAY • CHICO, CALIFORNIA 95926

TELEPHONE: (530) 891-2800

FAX: (530) 891-2877

September 12, 2005

The Honorable Barbara Roberts, Presiding Judge  
Butte County Superior Court  
One Court Street  
Oroville, California 95965

Re: Response from the Board of Supervisors to the 2004-2005 Grand Jury Report

Dear Judge Roberts:

First of all thank you to you for your guidance of the Grand Jury this past year. They did a very thorough examination of the problems associated with the Butte County Department of Development Services.

The department is essentially dysfunctional. The former Director of Development Services was extremely incompetent, but had the approval of the 4<sup>th</sup> and 5<sup>th</sup> District Supervisors who believed if the department head was weak they could push forward their ideas of development wherever one wanted it.

There is a huge difference in helping a constituent with a project and demanding that normal rules get broken.

It has long been a practice of mine, if asked by a constituent to help with a project, to invite the applicant and his engineer to come meet with the planner, the county engineer, Agricultural Commissioner and any other departments which might have a say as to what is legal and what is desirable. This can save time, money and energy and allow the application to move smoothly through the process.

At a meeting of the Board of Supervisors I supported a ballot measure as suggested by the Grand Jury. I still support such a ballot measure but believe we should wait until the regularly scheduled primary in June 2006.

The Honorable Barbara Roberts, Presiding Judge  
Butte County Superior Court  
September 12, 2005  
Page 2

It is amazing to me how much of a white wash the response is from the Board of Supervisors. I do not agree with it. There has been harassment and coercion. Developments have been approved that should not have been approved. There are state laws governing development and the rules have been changed to suit special interests.

Again, thank you and the Grand Jury for all their efforts.

Sincerely,

A handwritten signature in cursive script that reads "Mary Anne Houx". The signature is written in black ink and is positioned below the word "Sincerely,".

Mary Anne Houx  
maoh/

## **City of Chico Planning Department**

**Kim Seidler, Planning Department- City of Chico**

**Scott Gruendl, Mayor- City of Chico**



COMMUNITY DEVELOPMENT  
DEPARTMENT

PLANNING

411 Main Street - 2nd Floor (530) 879-6800  
P.O. Box 3420 Fax (530) 895-4726  
Chico, CA 95927 <http://www.ci.chico.ca.us>

7-27-05  
July 25, 2005

The Honorable Barbara Roberts  
Presiding Judge, Butte County Grand Jury  
Superior Court, County of Butte  
One Court Street  
Oroville, CA 95965

Re: Response to 2004-2005 Grand Jury Final Report

Dear Judge Roberts:

Pursuant to Penal Code Sections 933 and 933.05, this letter will respond to findings and a recommendation included on pp. 19-20 of the 2004-2005 Grand Jury Final Report.

The information provided in the Report is not specific with regard to the identity of either the concerned citizen or this citizen's development project. However, enough background is provided in the report for me to be able to infer with some confidence the identity of the citizen and the precise situation referred to, and to respond based on my assumption that this is correct. According to the Report, the citizen, an applicant for a subdivision approved by the City in 2004, had the following complaints:

- The City's approval process was unreasonably slow.
- The City's approval process was unreasonably expensive, and the billing process was confusing.
- City staff were not accountable.
- The City interpreted the General Plan inconsistently with regard to the applicant's project, and did not inform him until late in the process that his project approval would involve residential height restrictions and limitations on his plans to construct a gated community.

**Responses**

***Responses to allegations of the complainant:***

1. *Slow process.* The original subdivision application was filed on 5/28/03. Even though the City, pursuant to State law, has 30 days in which to determine whether the application is

complete and to notify the applicant of additional information required to complete the application, in this case the City staff notified the applicant that a revised map would be required on 6/11/03, only 14 days after the application was filed.

After this notification was sent, the applicant provided the City with a revised map on 1/6/04, well over six months after it was requested. Each time additional information is provided, the City by law has another 30 days to determine the completeness of the application. In this case, City staff used only 10 days from the time of resubmittal to determine that the application was still not complete, and notified the applicant of this on 1/16/04.

A second resubmittal was provided by the applicant on 2/2/04, and once again, the staff determined that it was not complete, notifying the applicant on 2/20/04 (18 days after the resubmittal). On 3/4/04, a revised map was submitted, and staff determined that the application was now complete, notifying this applicant of this on 3/11/04 (seven days after the final submittal). At no time did the staff make use of the full 30-day application review period allowed by State law; each and every time, the staff's review took place significantly more quickly than the maximum periods allowed.

Once the application was finally complete, the staff prepared an initial study pursuant to requirements of the California Environmental Quality Act (the project site is in an area of significant biological and visual sensitivity). This initial study was completed on 4/27/04 and circulated for the mandated 30-day review. A public hearing was scheduled, legal notice was disseminated, a detailed staff report with a recommendation of project approval was prepared, and the application was heard by the Planning Commission on 6/17/04, only three months after the application was completed by the applicant.

Considering that the great majority of the time between the original application date and the Planning Commission hearing was spent by the applicant in completing his application, the processing time of this application could not legally have been shortened significantly over the actual time it took the City to do it, and in fact the City could legally have taken substantially more time to process it than it actually did. I do not believe that any experienced land developer in Chico or any other California city would consider the time it took to get this completed application (particularly for the development of an environmentally sensitive site) to a public hearing to have been long at all, not to speak of unreasonably long.

The City staff recommended approval of the application, but with a couple of restrictions (building height and community gating; see below) that the applicant found unacceptable. When the Planning Commission, in approving the application, imposed these restrictions, the applicant appealed to the City Council, and a hearing on the appeal was held within the 30 days mandated by the State Subdivision Map Act.

- 2. *Unreasonably expensive.*** As the Report states, the City charges on the basis of real-time billing for subdivision applications. This is clearly indicated in the City's fee schedule (adopted by ordinance) and in the Planning Division's informational materials regarding application fees and deposits. Moreover, while I am not aware of any previous development applications submitted by this applicant, the applicant's engineer has been involved in the processing of dozens of subdivisions through the City of Chico. City staff is in no position to estimate, particularly before an application is complete, how many hours will be spent on a specific application (and therefore how expensive processing will ultimately prove to be), and because of the inherent uncertainties in the process, would be remiss, I believe, in attempting to do so in detail for any applicant.

Without more information as to what the applicant found confusing in the City's billings, a specific response is not possible. Generally, however, the City is currently reviewing its billing processes, and as a part of this review, we will be looking at whether our billings are as clear as they can be.

- 3. *Accountability of City officials.*** It is difficult to respond to this assertion without knowing to what it refers. The staff is absolutely accountable in the land development process: to the applicant, to be sure, but also to the Planning Commission, to the City Council, and to the general public, whose interests the staff seeks to serve through the application of its expertise and the implementation of General Plan policy. The Planning Commission, too, is accountable in much the same way: to the applicant, but also (and to no lesser extent) to the public. A disagreement with an applicant about a recommendation or an interpretation of policy is not exactly an unusual circumstance in Chico or anywhere else, but the mere fact that disagreement may exist cannot imply a lack of accountability on the part of either the staff or the Planning Commission.
- 4. *Height restrictions and gated community; inconsistencies in interpretation of General Plan.*** Early correspondence with the applicant points out that the City's foothill design standards would apply to his development, but there was no mention in it of a 20-foot height limitation, and this limitation was not subsequently included as an environmental mitigation measure in the initial study. The limitation was listed for the first time as a condition of approval in the staff report that was forwarded to the Planning Commission. The 20-foot limitation, intended to be applied to several lots in higher elevations of the subdivision, was based on a very real and public concern about the potential visibility of houses on these lots from public areas in Bidwell Park and elsewhere. The 20-foot height limitation was imposed by the Planning Commission in its approval of the project, but this decision was appealed by the applicant to the City Council, which raised the limitation on these lots from 20 to 23 feet.

While I believe that the staff's concern about visibility from Bidwell Park was justified in this regard, I can sympathize with the applicant. It would indeed have been preferable had this recommended limitation been disclosed and discussed substantially earlier in the process (and

addressed in the initial study as well). However, one reason for its later appearance was a call placed to the project planner relatively late in the process raising concerns about the height of the new homes. It is important in land use planning for the staff to consider public comments throughout the process, and not merely during the public hearing at its end. An initial study, for example, is not intended to represent the final word on the environmental impacts related to a project; the study is required by state law to be circulated for public review before decisions are made precisely in order that the public might respond to it and suggest improvements. As diligently as the staff seek to identify and resolve issues early in the process, circumstances will change as new information and perspectives are received through an open and transparent process.

With regard to the gated community issue, the applicant did not mention, and his early submittals did not indicate, his intention to make his development a gated community, and for that reason the subject was not raised with him by the staff at that time. The gate first appeared in much later submittals by the applicant. When the staff report was subsequently prepared, it included a recommendation that the gate not be approved. This recommendation was based on General Plan policy language that has been included in the Report.

By their very nature, General Plans include a wide variety of policies that must be weighed against each other and an appropriate balance found. It is the staff's ineluctable responsibility to address this in its review of an application and in the formulation of recommendations. As it happens, the Planning Commission agreed with the staff recommendation and required removal of the gate from the map.

On appeal, the City Council approved the subdivision with the gate, noting that it was the last subdivision on its street, because of the immediate proximity of two other gated subdivisions (one developed in the County, and one developed in the City prior to adoption of the current General Plan), and because of safety concerns raised by the applicant/appellant. The Council did point out, however, that this decision was not intended to set a precedent with regard to other subdivisions in Chico. Still, the applicant gained his objective, and despite his disapproval of the staff recommendation or the action of the Planning Commission, it is hard for me to understand his subsequent complaint on this issue to the Grand Jury or how the process ultimately did not work for him.

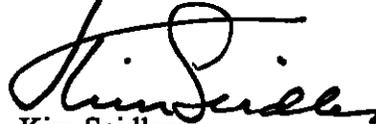
***Response to Grand Jury findings and recommendation:***

I concur both with the Grand Jury's findings and with its recommendation. The land development process in Chico involves great complexity and public scrutiny, and from the standpoint of the City, delays are often unavoidable. City staff, however, do aspire to process development applications as quickly as possible, and the facts as related above support this assertion.

Response to Grand Jury Report  
July 25, 2005  
Page 5

Nevertheless, the City staff must always keep in mind the informational needs of property owners and developers regarding all aspects of the development process, and must continuously work to find better ways to explain it, particularly to those who may have less experience with it. This has been and will continue to be emphasized in internal discussions and training.

Respectfully,

A handwritten signature in black ink, appearing to read "Kim Seidler". The signature is fluid and cursive, with a large initial "K" and "S".

Kim Seidler  
Planning Director

**Attachment: Referenced Excerpt from Grand Jury Report**

cc: City Council  
Planning Commission  
CM, SACM, ACM, CC, CA, ACA Barker, PP, CDD, Planning Division

# 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

## 2004-2005 BUTTE COUNTY GRAND JURY

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



OFFICE OF THE  
MAYOR

411 Main Street (530) 896-7250  
P.O. Box 3420 Fax (530) 895-4825  
Chico, CA 95927 <http://www.ci.chico.ca.us>

G-GA-1-14/Chrono

August 5, 2005

The Honorable Barbara Roberts  
Presiding Judge, Butte County Grand Jury  
Superior Court, County of Butte  
One Court Street  
Oroville CA 95965

Re: Response to 2004-2005 Final Report of the Grand Jury

Dear Judge Roberts:

The Grand Jury noted two recommendations in its 2004-2005 Final Report which relate to the City of Chico. Set forth below is the response from the City of Chico.

**RECOMMENDATIONS REGARDING DOWNTOWN CHICO PARKING**

**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:** No response was required for these recommendations. In addition to authorizing design and environmental review for a parking structure, the City Council recently directed staff to bring back a proposal to hold a charrette this fall to provide the community an opportunity to address downtown parking issues. Staff is continuing to work with CSUC on parking issues and CSUC will be invited to participate in the charrette.

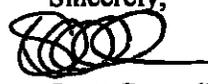
**RECOMMENDATIONS REGARDING THE CITY OF CHICO PLANNING DEPARTMENT**

**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.

**Response:** The attached letter dated July 25, 2005, from Planning Director Kim Seidler addresses this recommendation in detail. In addition, the City Council recently adopted an ordinance to implement a reorganization of City departments to make sure that engineering and planning efforts are coordinated and to help expedite the process.

The Honorable Barbara Roberts  
Presiding Judge, Butte County Grand Jury  
Page 2  
August 5, 2005

If you have any further questions, please feel free to contact me or City Manager Tom Lando at 896-7201.

Sincerely,  
  
Scott Gruendl  
Mayor

**Attachment**

cc: Council/Clerk (8)  
CM/SACM/ACM  
CDD  
PlanDir  
DPW

# **The Chico Unified School District Board of Trustees**

**Required Physical Education Uniforms**

**Student Fees at Chico High School**

**Students Get What They Pay For**

**Marsh Junior High School Follows the Money**

**Attachment: Student Body Funds (ASB), ASB Practice (Draft 9/20/05)**

**Attachment: Fees Practice (Draft 9/20/05)**

**Attachment: Fundraising (Draft 9/20/05)**



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

OCT - 7 2005

530/891-3000  
fax 891-3220  
www.ChicoUSD.org

Office of the Board of Education  
530/891-3000 ex. 149

To: The Hon. Barbara Roberts  
Presiding Judge of the Butte County Superior Court  
1 Court Street  
Oroville, CA 95926

From: The Chico Unified School District Board of Trustees

## 1. Introduction

The Board of Education is pleased to have this opportunity to respond to the Butte County Grand Jury's 2004-2005 Final Report in our role as trustees and the sole responsible body for the Chico Unified School District (District).

It is the District's intention to follow the letter and spirit of the law, and therefore, we appreciate the Grand Jury's work to identify areas where we might need to improve our practices. Accordingly, upon receiving the Report, we contracted with a respected independent authority, Fiscal Crisis Management Assistance Team (FCMAT) to conduct a thorough review of many issues raised in this report so that we might inject substantive and real improvements for students and families where appropriate.

Providing core and enriched educational programs for students, despite challenging funding and legal constraints, remains the Board's chief aim. We believe in, and advocate for, free public education for all students irrespective of their individual economic ability.

## 2. Required Physical Education Uniforms

### 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 (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.*

This is an accurate statement of law.

- 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.*

The District agrees that wearing appropriate PE clothes during PE classes is required. Students have the opportunity to "dress down" in gym clothes purchased from the District, purchased from non-District retailers, obtained independent of the District, or borrowed at the school sites and without charge. While gym clothes are required (gray t-shirt, red or black shorts), the District does not require that a student purchase these clothes. The current CHS written policy provides: "Students will not be graded differently if they choose not to buy a PE uniform. However, not changing into PE clothes prior to class will affect grades." A student's failure to "dress down" may be disciplined as a failure to participate: students are generally not permitted to exercise in their school clothes. The District acknowledges that there has been confusion in the past regarding PE clothes, PE uniform purchase and PE grades and further acknowledges that the source of this confusion was in the written materials previously provided to students and parents.

- 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.*

The District desires to protect the privacy and confidentiality of students. Therefore, CHS permanently discontinued use of a fee waiver in the context described above early in the previous school year (2004-05). The District disagrees with this finding in part as fee waivers are allowed in some situations; for some fees, waivers are required (e.g., exemption for financial hardship for athletic team member insurance; Education Code section 32221.)

- 4. The course syllabus BJHS, PVHS, and CHS all state school wide physical education uniforms are required.*

The District agrees with this finding in that PE clothes are required for PE.

## **Recommendations:**

1. *All CUSD schools should immediately ban the practice of requiring students to purchase a specific uniform.*

This recommendation has been implemented. Students have always had options for obtaining appropriate PE clothes. Unfortunately, prior to the current school year, these options were, in many instances, not well communicated to students or families. (Please see written information currently provided by Chico and Pleasant Valley High Schools (attached).)

2. *Any public school that requires a specific school PE uniform shall provide the uniform to all students free of charge.*

The District intends to follow both the letter and the spirit of the law as we support students and families. The California Department of Education (Fiscal Management Advisory 97-02) has opined that it is permissible for districts to require students to obtain their own gym clothes of a district-specified color, so long as the design and color are of a type sold for general wear outside the school.

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.*

The District acknowledges that there has been confusion, created by District written materials, as to the various options available to students and parents for PE clothes. The District believes the options are now well-explained and by way of the attached notices has made certain that the options are well-known. The Superintendent will report to the Board on this matter during the current 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.*

The District is not aware of any student suffering a downward grade adjustment who chose not to "dress down" in PE clothes either purchased or supplied. A student should not participate in PE in their school clothes; therefore, a student's failure to "dress down" may be disciplined as a failure to participate which would affect a student's grade.

5. *The fee waiver question "our family is eligible for free/reduced lunch" should be removed from all CHS applications.*

The District agrees with this recommendation and it has been implemented. The District desires to protect the privacy and confidentiality of students. Therefore, CHS permanently discontinued use of a fee waiver question in the context described above early in the previous school year (2004-05).

6. *The practice of waiving fees for classes should be discontinued, as there are no legal fees for classes.*

The district agrees with this recommendation and it has been implemented effective in the 2005-2006 school year. See CHS Student Handbook Curriculum Guide.

### 3. Student Fees at Chico High School

#### Findings:

1. *Substituting the word "donation" for fee and requiring donations continues to leave CHS in a position of questionable legal compliance.*

The District acknowledges that there has been confusion as to the distinction between a permissible donation and an impermissible fee. It is the District's intent to eliminate any confusion, District-wide, by way of the attached draft District Practice, to be completed and implemented in the 2005-2006 school year; please see also, CHS Student Handbook Curriculum Guide at page 35. It should be noted that CHS does not believe it had a practice of substituting fee for donation and requiring donations.

2. *CHS is asking students to identify if they are the recipient of free or reduced lunch when applying for fee (donation) waivers.*

The District acknowledges that this information has been requested in the past. It is the District's intent to eliminate any unauthorized request or use of free or reduced lunch information, District-wide, by way of the attached draft District Practice, to be reviewed and implemented in the 2005-2006 school year; please see also, CHS Student Handbook Curriculum Guide. In addition, the District notes that certain fee waivers are not only permissible but required (e.g., exemption for financial hardship for athletic team member insurance; Education Code section 32221.)

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.*

The District does not have a system of funding curricular activities through ASB dollars. The District does, however, acknowledge that, in certain classes, District funds were deposited into ASB accounts and drawn there from for supplies. This improper bookkeeping procedure has been discontinued.

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.*

It is the District's intent to eliminate any unauthorized student tracking of fundraising and donation receipts, District-wide, by way of the attached District Practice. However, the District respectfully disagrees with this finding, in part, for two reasons. First, student-based fundraising may be student-tracked, where the funds are raised for certain activities. (E.g., out of state, non-class or non-curricular based travel; Education Code section 35330.) Second, it is permissible to track donations by donor, at least for refund purposes; thus when the student is the donor, student identification may be used.

5. *Teachers believe that a quality curriculum cannot be provided without ASB funds being transferred into their district classroom accounts.*

The employees of the District likely all share the view that years of cumulative state education budget cuts have taken a toll on the classroom. However, the District does not agree that teachers, District-wide, believe that the solution to this chronic problem lies in the classroom use of ASB money.

#### **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.*

It is the District's intent to eliminate any potential confusion as to permissible and impermissible fees and donations, and the methods for collecting and disbursing the same, District-wide, by way of the attached draft District Practice, to be reviewed and implemented in the 2005-2006 school year. It is noted that the District does not agree that it has utilized a fee based "policy" of funding the learning experiences of students.

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.*

It is the District's intent to eliminate any unauthorized student tracking of fundraising and donation receipts, District-wide, by way of the attached draft District Practice\*, to be reviewed and implemented in the 2005-2006 school year. However, because student-based fundraising may be student-tracked where the funds are raised for certain activities (e.g., out of state, non-class or non-curricular based travel; Education Code section 35330) and for refund purposes when the student is the donor, certain student tracking is authorized and may be utilized for the benefit of the student.

\* The Draft District Practice, while a work in progress and subject to review by FCMAT, is currently being utilized by the District.

- 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.*

Title to durable good ASB purchases may be transferred by the ASB to the District. ACT ASB students made the decision to purchase the bus with the intent that it directly benefits students. More specifically, the ACT Presentation Teams received a \$3000 donation in the summer of 2003, serving as keynote speakers at a conference held at Chico State. Those funds went directly towards the purchase of the bus. Parent donations provided the balance of the purchase price. For these reasons, it is the District's belief that this recommendation should not be implemented because it is not warranted.

- 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.*

ACT students work with teachers in the SLC labs before and after school, during lunch and on weekends when the library is not open. Equipment must be made available to students during these times. Therefore, it is the District's belief that this recommendation not be implemented because it is not warranted.

- 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.*

The District agrees with this statement and to the extent that it is a recommendation, it has been implemented. See draft District Practice, to be reviewed and implemented in the 2005-2006 school year.

- 6. Chico High should immediately stop charging mandatory classroom fees as in Glass Design and Advanced Glass Design.*

Effective in the 2005-2006 school year, fees are not charged to students enrolled in glass design. However, there is an actual cost of materials charge for items taken home. See CHS Student Handbook Curriculum Guide.

- 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.*

The District will carefully consider requests for refunds on a case-by-case basis. The remainder of the recommendation has been implemented effective in the 2005-2006 school year.

See draft District Practice, to be reviewed and implemented effective in the 2005-2006 school year.

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.*

This recommendation has been implemented effective in the 2005-2006 school year. See draft District Practice, to be reviewed and implemented effective in the 2005-2006 school year.

9. *All donations collected on campus should be paid to the comptroller and deposited into ASB accounts.*

Consistent with FCMAT practices, donations may be collected by site personnel and then deposited with the comptroller. The District therefore respectfully maintains that this recommendation not be implemented because it is not feasible to have all donations collected on campus paid directly to the comptroller, nor are all donations intended for deposit 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.*

This recommendation has been implemented effective in the 2005-2006 school year. See draft District Practice, to be reviewed and implemented effective in the 2005-2006 school year.

#### **4. Students Get What They Pay For**

##### **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.*

The District understands this to be an accurate quote from the District and correct statement of the law; accordingly the District intends to follow both the letter and the spirit of the law as we seek to support student-learning experiences.

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.*

The District agrees that in one instance, a student did not have sufficient funds to attend the CHS Choir's China trip, was permitted to go, but was told that the amount credited would have to be repaid and that the student's diploma would be withheld absent the promised reimbursement. In fact, the reimbursement was made and the diploma was not withheld. The District believes this was a single incident and will not be repeated. The District does not believe that this was a practice.

District site administrators are appropriately charged with enforcing school board policy and accounting for large amounts of funds; those duties are an integral part of the job. Site administrators are responsible for all site activities, including ASB fund matters (Education Code 35020; Board Policy 2210). In addition, the FCMAT review emphasized that site-level day-to-day supervision of the ASB Comptrollers be maintained. Therefore, the District respectfully disagrees with the second portion of the finding.

- 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.*

The District's criminal act/fraud insurance coverage, with limits of \$2,000,000 per occurrence, provides loss of funds coverage and applies to all employees. It is therefore broader than employee-specific bonded employee coverage and therefore exceeds the Grand Jury's recommendation.

- 4. Generally, receipt books and accounting methods, other than comptroller issued and approved systems, have been used for collecting and accounting for money.*

This District agrees with this finding.

- 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.*

The District agrees with this finding, in part, in that, infrequently, some checks intended to be deposited to the Foundation were unintentionally made payable by the checks' donors to CHS. To be faithful to the donor's intent, such checks were deposited with the Foundation. This has been rectified with the District Practice, whereby donors will be better advised as to the identity of the proper payee.

- 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.*

This is a correct statement regarding the relationship between CHS and the North Valley Community Foundation (NVCF) as well as a correct statement of law by FCMAT. The District does not believe that it has improperly opened an account.

### **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.*

The District agrees with this recommendation.

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.*

This recommendation will be fully implemented in the 2005-2006 school year, with the caveat that site-level day-to-day oversight, as recommended by FCMAT, remain in place.

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.*

The District agrees with the language set forth in the recommendation; to the extent it has not already been implemented, it will be fully implemented effective in the 2005-2006 school year by way of the draft District Practice, to be completed in the 2005-2006 school year.

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.*

This recommendation has been implemented, assuming the reference is to FCMAT

analysis. The District has retained FCMAT; FCMAT has evaluated ASB accounting. The results of that investigation have been used, in part, to develop the District Practice referenced in this Response. FCMAT will continue to be used by staff for at least three years. In addition, Education Code section 41020 requires an annual independent audit in addition to the evaluation undertaken as described.

5. *Thereafter, annual training should be provided by CUSD for all CUSD teachers, administrators, and district office staff.*

This recommendation has been implemented with annual training to be provided for appropriate CUSD personnel.

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.*

Collection of ASB money at sites is specifically contemplated by FCMAT; central collection of such moneys would be impractical. Because the first sentence is not consistent with the FCMAT's training nor its published ASB Accounting Manual (2005), the District believes that this recommendation should not be implemented. Monthly reconciliation has been implemented and is in place. Effective in the 2005-2006 school year, a quarterly summary of ASB activity, by site, will be submitted to the 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.*

As noted by the Grand Jury, the NVCF (Foundation) is an entity independent of the District. Consistent with the FCMAT's training and its published ASB Accounting Manual (2005), parents and others may independently donate to the North Valley Community Foundation. The Foundation may donate to the District, consistent with the donor's intent, at which time the School Board will acknowledge acceptance, consistent with all other donations.

8. *The practices of withholding diplomas and credit bureau reporting for students that owe fees should be discontinued immediately*

Diplomas may be withheld and collection procedures utilized in certain circumstances for authorized fees, willfully unpaid; such fees include amounts due for damaged or destroyed District property. It should be noted that withholding of diplomas is rarely done and only under exceptional circumstances.

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

This recommendation will be considered for the 2006-07 school year.

## 5. Marsh Junior High School Follows the Money

### 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.*

The District agrees with this finding and adds that staff have benefited from the FCMAT review.

2. *CUSD is not consistent in its implementation of the policies, procedures and advisories that it quotes in its disciplinarily (sic) packet against the former Principal of MJHS.*

The District believes that the matters set forth in the materials referenced above describe conduct that is different in degree and extent than the conduct described in the Grand Jury's Final Report. The District acknowledges the need to assure consistency in the implementation of its policies and procedures. Training, follow-up and the development of District Practices, to be fully implemented in the 2005-06 school year, will insure that all school personnel follow the guidelines as approved by the District.

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.*

District administration is ultimately responsible for ASB funds. The District's administration is responsible for ASB fund oversight, for developing ASB policies and procedures and for the necessary training thereof. The District administration also recognizes that site administrators are responsible for all site activities, including ASB fund matters (Education Code 35020; Board Policy 2210). In addition, the FCMAT review emphasized that principals continue to maintain day-to-day supervision of the ASB Comptrollers. The District agrees, therefore, that ASB fund control is both a site and an administrative matter.

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.*

As set forth in response to the previous finding and pursuant to the Education Code, the site principal is responsible for implementing applicable District policy as well as the District-developed ASB practices. To that extent, then, the District maintains that these practices do not conflict with our objective. That said, the District is continuing to develop more uniform ASB accounting practices.

5. *The former Principal of MJHS does not appear to have personally benefited (sic) or "misused public" funds as stated in his disciplinary charge filed against him.*

The District agrees that no ASB funds were deposited into any personal account of the former principal nor were ASB funds utilized to purchase items of personal use. "Personal benefit" may be a subjective evaluation. The District understands that the Grand Jury and others do not believe that garnering favor from students and parents by making unauthorized expenditures qualifies as "personal benefit." The District continues to believe that the materials referenced demonstrate instances of the misuse of public funds.

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.*

The District acknowledges instances of failure to follow ASB approval regulations and intends to continue working towards complete compliance.

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.*

The District agrees with this finding.

8. *During the peak times in fundraising, there is insufficient support available at school sites to insure timely deposits.*

The FCMAT evaluation confirmed that District staffing is appropriate, and therefore, the District respectfully disagrees with this finding. The District does, however, understand that appropriate procedures and training must be in place to insure timely deposits and believes this can and will be accomplished.

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

While the district does not concur with the assertion that similar practices occurred at all of the district's secondary schools (see District Response to Finding 2), the District acknowledges that the ASB practices throughout the secondary schools need improvement. It is our belief--in fact, there is evidence by our draft District Practice--that our administrators, working in conjunction with FCMAT, are determined to remedy those practices found in error. The end result will be a better system to serve the students of CUSD.

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.*

This recommendation has been implemented effective in the 2005-2006 school year.

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.*

This recommendation has been implemented, in part, effective October 1, 2005. The District notes that site administrators are responsible and will continue to be responsible for the day-to-day supervision of school comptrollers. See draft District Practice, to be reviewed and implemented in 2005-2006.

4. *Fundraising money should only be used to supplement the classroom experience based on the wishes of the students.*

This recommendation has been the District Practice as to ASB funds and is therefore implemented.

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.*

The District will consider this suggestion during the 2005-2006 school year.

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.*

As to the recommendations of Matsom and Isom, these controls have either been implemented or will be during the 2005-2006 school year. The FCMAT evaluation confirmed that District staffing is appropriate, and therefore, the District does not plan to implement the second portion of the recommendation. The District does, however, understand that appropriate procedures and training must be in place to insure proper accounting and timely deposits and

believes that this can and will be accomplished.

7. *Detailed descriptions should be included in every transaction to accurately describe the intended use.*

This recommendation has been implemented effective the current school year.

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.*

This recommendation was implemented in the 2004-2005 school year.

Passed and approved by the Board of Trustees of the Chico Unified School District on October 5, 2005, by the following vote:

Ayes: Anderson, Huber, Reed, Rees, Watts

Noes: None

Absent: None

Abstain: None

  
Rick Anderson, President, Board of Trustees

## **Student Body Funds (ASB)**

Student body ASB funds consist of monies collected, contributed, and earned by students through activities such as contests, plays, and sales, including monies given to a particular school for use of students. Projects and activities of student bodies have only two purposes: (1) to promote the general welfare, education, and morale of students; and (2) to finance approved extracurricular activities.

### **Establishment of the Student Body Organization**

Students in elementary and secondary schools are authorized to establish a student body association subject to the control of District policy and procedures and under the direction of the school principal. A student body organization shall conduct its activities as approved by the principal on behalf of the students at the school.

Student body organizations shall adhere to the following procedures:

1. Student body funds must be used to promote and finance a program of worthwhile co-curricular activities beyond those provided by the District.
2. Fund-raising projects must contribute to sound educational principles and should not be in conflict with the educational program of the District.
3. Funds derived from student body activities must be expended in a manner approved by the student governing board.
4. The accumulation of large student body reserves is discouraged. Student body funds must be expended for the benefit of those students currently enrolled in the school who have contributed in one way or another to the accumulation of such funds. Well planned, long-range programs may be carried forward from year to year.
5. Prior approval by the student governing body and principal must be obtained in fund raising and expending student body funds. Board approval is required for major fund-raising activities.
6. Student body funds are to be managed in accordance with sound business practices, including adherence to accepted budget procedures.
7. Student body business, including fund raising and expending of funds, will be conducted so that competition with local business firms is kept to a minimum.
8. The school principals, through the authority delegated to them, are responsible for

the proper conduct of the financial activities of the student body.

9. Principals and their delegates must participate in the preparation, modification and interpretation of procedures and regulations affecting student body affairs.

### **Basic Responsibilities for Supervision of Funds**

The Assistant Superintendent for Business Services, as designated by the Superintendent, shall have responsibility and authority to implement all policies and regulations pertaining to the supervision and administration of student activity funds in accordance with established policies and regulations of the Board of Education and is responsible to implement training thereon. Authority over ASB financial processes and compliance rests with the business office.

The Principal shall be directly responsible for the conduct of student financial activities in accordance with those policies and procedures. The principal/designee shall work closely with the student body advisor to make sure that the correct procedures are followed. The principal shall establish a student body finance committee made up of the school principal/designee, student body advisor and the appropriate student body officers.

The Associated Student Body (ASB) advisor, under the principal's direction, shall be responsible for all student body activities.

The comptroller for the student body organization is responsible to the principal for keeping the financial records, including the appropriate tax reports. 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, Associated Student Body Accounting Manual and Desk Reference, published by FCMAT.

When an elementary school has developed a student body organization, its complexities and responsibilities should be consistent with the maturity level of elementary school children. The principal may require approval of a principal's advisory committee as a condition for authorizing any expenditure from student body funds.

For secondary schools:

1. The student council or a student/faculty budget committee thereof, shall recommend budgets, expenditures, and fund-raising activities in conformance with established policies.
2. The student body governing board shall have control of all student body activities and funds, and shall have the power to approve or disapprove budgets, unbudgeted expenditures, and activities. However, the principal shall have the

power to veto any action taken by the student governing board.

### **Management of the Student Body Finances**

All food sales and other fund-raising activities by student groups are subject to District policies and procedures and are not to interfere with the normal conduct of the instructional program at the school.

Funds generated by any student organization shall be deposited or invested in one or more of the following ways:

1. Deposits in a bank or banks whose accounts are insured by the FDIC.
2. Investment certificates or withdrawable shares at State chartered savings and loan associations and savings accounts at Federal savings and loan associations.
3. Purchase of repurchase agreements issued by savings and loan associations or banks.
4. Purchase of bonds, notes, bills, certificates, debentures or any other obligations issued by the United States of America.
5. Shares or certificates for funds received or any form of evidence of interest or indebtedness issued by any appropriately insured credit union in the State.

The following procedures for student body funds shall be followed:

1. A school employee, other than the school comptroller, is to review monthly bank statements.
2. Pre-numbered receipts are to be used for all cash receipt transactions. Details of the number of items receipted and the unit price of each item to be noted on the receipt.
3. When practical, pre-numbered auxiliary receipt books are to be issued to club advisors for all cash collections at student activities.
4. A monthly reconciliation of all receipts is to be conducted to ensure accuracy. Deposits are to be made intact.
5. Report all Associated Student Body overages and shortages to the principal to ensure appropriate follow through.
6. Maintain activity records on all Associated Student Body vending machines.

Conduct periodic physical inventories to ensure proper control of all merchandise.

7. Establish a billing system for Associated Student Body advertising, i.e., newspaper and yearbook, to ensure that all payments are received, recorded and deposited in a timely fashion.
8. Utilize approved purchase orders and requisitions with appropriate administrator, advisor and student signatures.
9. Personal checks will not be cashed with student body monies.
10. Deposits shall be made on a weekly basis when the amount exceeds \$100.
11. Bank deposits shall be made whenever receipts exceed \$500.
12. All receipts shall be deposited in the student body account.
13. Disbursements for authorized expenditures will be made by check only.
14. Based on limitations of insurance for banks and savings and loans, no student body shall deposit more than \$100,000 in any single financial institution.
15. Contracts must be approved by the student council; voting results shall be recorded in the written council meeting minutes. ASB budgets must include any contractual obligation or be revised to reflect any monetary obligation and proceeds incurred.

Student body funds shall not be used for the following:

1. Purchase of equipment and supplies which are normally purchased by the District, 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 the personal use of District employees: under no conditions shall student body money be expended for the benefit of faculty;
5. Gifts, loans, credit or the purchase of accommodations for District employees or others.
6. Used to make capital improvements or purchase equipment without approval of the Principal. Such approval is required in order to guard against purchase of

substandard equipment which the District could not maintain at equitable cost and to ascertain that the primary purpose of a purchase is to benefit the student activity program.

7. Purchase of equipment intended primarily for instructional use.
8. Purchase of items sold by district employees.
9. Purchase of medicines.
10. Donations to outside groups
11. Personal memberships

In addition to the above:

1. Sale of tickets shall be conducted only by the school and by recognized school-site community-affiliated organizations and only when such sales do not interfere with the educational program. Students are not authorized to sell tickets door-to-door. Donations for tickets may not be solicited for participation in raffles or lotteries.
2. Schools may not assume a debt that will run beyond the current fiscal school year.
3. Investment of funds shall comply strictly with state law and shall be accomplished only after site approval by the ASB and the Principal.
4. Accounts in student body organizations are intended only for students currently enrolled in the school. Therefore, before the close of each school year, the graduating class shall prepare a class will that provides for disposal of all funds remaining in the class account after all obligations of that class have been met; the will shall be signed by all officers of the graduating class. Funds may be designated for specific purposes or transferred to the Student Body General Fund. If a graduating class fails to draw up a will, or makes provisions for only a portion of the remaining balance, the undesignated amount automatically will be transferred to the Student Body General Fund.
5. Donations for class supplies, faculty lounge vending machine proceeds and lost textbooks/library book damages fees should not be deposited into ASB accounts.

Student body funds shall be expended subject to such procedures as may be established by the student body organization, subject to the approval of each of the following three individuals prior to the expenditure of any of the funds:

1. The principal/designee of the school,

2. The certificated employee who is a designated advisor of the particular student body organization,
3. A representative of the particular student body organization.

Student body funds of elementary schools may be used to finance activities for non-instructional periods or to augment or to enrich the programs provided by the District.

In elementary schools and continuation high school, where the student body is not organized, the principal shall be the trustee of the student funds and shall receive such funds in accordance with proper District procedures. The funds shall be deposited in a District account and shall be spent subject to the approval of the principal.

### **Auditing**

When a new principal, comptroller, or elementary school secretary is assigned to a school, an audit of ASB financial records shall be made; the principal shall request such an audit. The safe combination shall be changed

The District will provide internal auditing services on an as-needed basis.

## **Fees and Charges**

The District desires to furnish books, materials and instructional equipment as needed for the educational program. Because District needs must be met with limited available funds, the Board may charge fees when specifically authorized by law. The District shall consider the student and parent/guardian's ability to pay when establishing fee schedules and granting exceptions.

In general, fees may be charged only specifically authorized. (5 CCR 350.) Any District employee unsure as to whether a fee is proper or not should contact the District office first.

In certain circumstances, fee waivers may be used. However, such waiver requests shall not request information concerning free and reduced lunch eligibility or status. No fee waiver should be used in lieu of a donation.

The following fees and charges are permissible:

1. Accident and medical insurance premiums for athletic team members and insurance for medical or hospital service for students participating in field trips or excursions. (Education Code 32221 and 35331)
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; 39837)
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 and regional occupational programs, centers or classes (Education Code 39807.5; 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 6253; 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) The District, in its discretion, may seek reimbursement of damages and rewards from any individual or from the custodial parent/guardian of any minor who commits any act of theft or vandalism. only when the guilt of the person responsible for the crime has been established by a criminal conviction or other appropriate judicial procedures. (Education Code sections 19910; 19911; 44810; 48904. Civil Code Section 1714.1
14. Student fingerprinting program. (Education Code 32390)
15. Eye safety devices. (Education Code 32033)
16. Tuition for out of state and out of country resident. (Education Code 48050, 52613 and 8 USC 1184)
17. Adult Education books, materials and classes. (Education Code 52612, 60410)
18. Child care and development services. (Education Code 8263)

Hartzell v. Connell (1984) 35 Cal. 3d 899

Steffes v. California Interscholastic Federation (1986) 176 Cal. App. 3d 739

Arcadia Unified School District v. State Department of Education (1992) 2 Cal 4th 251

CTA v. Glendale SD Board of Education (1980) 109 Cal. App. 3d 738, 746-748

Driving School Assn of California v. San Mateo Union High School District (1993) 11 Cal. App. 4th 1513.

Subject to the above:

Fees may not be charged for any item necessary in any class, including food in a food class when such food is consumed by the student.

No additional fee may be charged for extra materials; all students will be provided with the same scope of materials. The District may be reimbursed for costs in certain circumstances when the item is taken home by the student. If you think that applies, contact the District office before seeking reimbursement.

At the option of the student, physical education uniforms may purchased from the District, purchased from non-District retailers, otherwise obtained independent of the District, or made

available at the sites and without charge.

Students may not be charged for workbooks, even if they write in them.

At the option of the parent or student, PE uniforms may be purchased from the District, purchased from non-District retailers, otherwise obtained independent of the District, or available at the sites and without charge.

## **Fundraising**

### **General Regulations**

1. Only those organizations under control and supervision of school authorities shall be permitted to conduct fund-raising in schools. Exceptions to this rule may be authorized by the superintendent.
2. Student organizations wishing to collect funds for any purpose shall obtain advance approval of the principal or designee and the ASB council.
3. Secondary school fund-raising functions normally should be conducted at the school and after school hours. Fund-raising activities in the community should be limited and subject to approval of the ASB adviser and the principal.
4. Door-to-door solicitation by students is not permitted except as provided herein.
5. Lotteries and raffles are not permitted.
6. Each elementary school is permitted to have four performances each year (two per semester) for which admission is charged.
7. No teacher may request donations for a single class, subject area or department. General requests for donations may be made by the principal for general school use.
8. Teachers may not sponsor class money making events. Only student groups may sponsor events.
9. A student group may not raise funds for class supplies or for items that do not benefit students in general.
10. All donation receipts must clearly identify to whom the donation was intended.

### **Fund Raising Procedure**

#### **Definitions**

1. **Minor Fund Raising:** A project or series of activities designed to raise less than \$5,000 gross.
2. **Major Fund Raising:** A project or series of activities designed to raise \$5,000 or more gross.

3. Exclusions: Classroom extended activities to raise money for the school's yearbook, the school's newspaper and student stores are not fund raising activities.

#### **Classifications of Major Fund Raising Project/Activities**

1. Class I: A project or series of activities that will be restricted to a school's student and parent population.
2. Class II: A project or series of activities that will extend beyond a school's population and will involve students, parents and members of the general community population in the fund raising effort.

No fund raising project/activity will be conducted in the name of the CUSD students without prior administrative approval. An individual and/or organization requesting fund raising projects/activities which are proposed to raise less than \$5,000 must complete a CUSD Fund Raising Request Form and have it approved or denied by the school principal/designee.

All major fund raising projects/activities which are proposed to raise \$5,000.00 or more in the name of CUSD students must be approved by the Board of Education. Any individual and/or organization wishing to sponsor a major fund raising project must submit a written proposal to a building principal for consideration. The principal will determine the appropriateness of each request, coordinate the number of fund raising activities and maintain a complete financial record of each District approved fund raising activity. The proposal will specify: (1) the purpose of the project, (2) the financial goal of the project and (3) target population of the project. The principal will submit the proposal to the Superintendent for consideration by the Board of Education. Each approved fund raising activity and project shall be consistent with the following criteria:

1. The fund raising project/activity is judged to be safe for all individuals involved.
2. The fund raising project/activity will not involve door-to-door solicitation for students K-6 nor for Class I activities for grades 7-12.
3. The fund raising project/activity is judged to be consistent with general community standards.
4. The fund raising project/activity is judged as to its affect on private enterprise in the community.
5. The fund raising project/activity is expected to have a positive effect on the individuals involved.
6. The purpose of the fund raising must be beneficial to a large segment of the students in the school(s).

7. Participation in the fund raising project/activity will be voluntary and students will not be expected to participate in a project/activity as a part of their class responsibilities.
8. Participation in the fund raising project/activity will be voluntary and no staff member will be expected to participate in the project/activity as a part of their professional responsibilities.
9. Funds generated will be used to supplement rather than supplant District financial resources.
10. All approved fund raising projects/activities will be conducted so that those individuals and/or organizations who elect to support the activities will receive goods and/ or services in return for their monetary commitments. Donations may be accepted; however, solicitation of donations will not be allowed.
11. Sponsors of all approved fund raising projects/activities are responsible for providing appropriate financial accounting systems which are open to public scrutiny.
12. Lotteries/raffles are illegal and will not be used to raise funds for any District sanctioned fund raising activities or projects.
13. Lottery Definition: A lottery is any scheme for the disposal or distribution of property by chance, among persons who have paid or promised to pay any valuable consideration for the chance of obtaining such property or a portion of it, or for any share or any interest in such property, upon any agreement, understanding or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle or gift-enterprise, or by whatever name the same may be known.

#### **Finances.**

All moneys collected by an organization must be deposited with the school's financial clerk and disbursed according to District regulations. This does not apply to fund-raising events conducted in the community by organizations that sponsor affiliated clubs and that do not involve use of school personnel or facilities. However, funds from such community events that are returned to the community-affiliated club must be deposited and disbursed according to school and district regulations.

Student body activity cards may be sold at an all-inclusive rate for a group of activities, such as athletic admissions, special assemblies, school newspapers, and yearbooks. Individual activities should be made available to all students who do not hold cards (but not necessarily at the reduced rate included in a card). The reduced rate to activity cardholders should be

established when the card is authorized.

### **Voluntary Financing of Activities**

Voluntary raising or contributing of funds to finance activities of an organization may be permitted if provided for in its constitution, but no student shall be required to pay or contribute as a prerequisite for participation in any activity conducted in schools during school hours.

In general, fundraising for a class or curricular trip may not be linked to specific dollar amounts for specific students. Tracking may be done for refund of donations or where a fee for the trip is authorized.

No student enrolled in any school shall be required to be a member of a student organization or pay any dues or fees to participate in a regular school activity.

Any activity of an educational nature conducted during class time for class credit, shall be deemed to be a regular school activity.

Before any activity to raise funds may be held in an elementary school, written permission must be obtained from the principal. The request must be submitted at least two weeks in advance to allow time for approval. A District-approved form must be used.

### **Fundraising by Nonprofit Organizations, PTA, PTSA, Foundation, Association, or Booster Clubs**

A nonprofit organization, PTA, PTSA, foundation, association, or booster club may fund-raise on behalf of the District upon District Authorization Organizations and individuals requesting permission to conduct a fund-raising activity must complete and District approved and prepared form. Before any non-District organization may participate in fund-raising activities, sponsorship is required by an organization directly under the control of school authorities. Approval of the principal must be received prior to initiation of any fundraising activities at a school by a non-District organization.

Fund-raising activities held at a school for the benefit, in whole or in part, of that school or of any organization directly under the control of school authorities, must be sponsored by an Associated Student Body organization at a particular school and/or a school club. No non-District fundraising shall compete with student group fundraising.

A nonprofit organization that solicits or raises funds on behalf of the district shall provide a copy of the fund-raising activity's income and expense reports and shall grant to the Board of Education the right to audit their financial records at any time either by district audit personnel or by an outside auditor.

The district's tax exempt status and Federal Identification number are not for the nonprofit organization, foundation, or booster club's use.

The nonprofit organization, foundation, or booster club's funds and accounts shall be kept completely separate from Associated Student Body accounts. The organization shall be responsible for their own bookkeeping and accounting. District employees are not to serve as organization officers. School personnel are not authorized to sign on the organization's bank account(s).

Persons wishing to donate to the 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. Any and all donations to any foundation should be clearly marked as such.

**Jeff Sloan, Former Principal, Marsh Junior High School**

**Marsh Junior High School Follows the Money**

**Attachments: Exhibits**

To: The Hon. Barbara Roberts  
Presiding Judge of the Butte County Superior Court  
1 Court Street  
Oroville, CA 95926  
From: Jeff Sloan

## **1. Introduction**

I want to express my gratitude for the systematic and thorough report of this Grand Jury. Words cannot adequately express how vindicated I feel after reading your report, specifically pertaining to the frivolous charges leveled against my staff and me by Superintendent Scott Brown. The entire staff at Marsh was honest and dedicated and there was never a single inappropriate expenditure as confirmed by this Grand Jury. From day one of this ordeal in March 2003, it was clear that an impartial review would yield the same conclusion as this Grand Jury.

It should now be apparent that other schools had similar practices. What occurred literally tore a staff, a vice principal, our town, and me apart and I hope your report helps this community heal and understand the truth. My actions and the actions of my staff were consistent with district practice for the past 15 years. As the grand jury properly concluded, there was no misuse of funds at Marsh and no one ever benefited personally from any expenditure. It has been a struggle to defend my staff and me against unwarranted allegations, but fortunately the Grand Jury spent the necessary time to verify that the Marsh accounts were accurate to the penny. (Finding #5 states that there was no misuse of funds during my tenure as principal.)

I can only hope that the District takes swift corrective action along the lines recommended in order to rectify the considerable damage that this episode has done to my professional career, personal reputation, as well as to my family. The damage was a direct result of living through this misguided, nightmarish ordeal. I hope that an apology will be issued to the Marsh staff and me for what we, and our families endured. Every journey begins with a first step, and an apology is that first step.

Although obstacles have been put in my way during the past 19 months, and normal functions made more difficult, I am determined to carry out my duties with the same sense of responsibility and passion as always. The students have, and will always come first. This is not the venue to attack the school district or restate so many of the difficult and disturbing events of the past 19 months. The Grand Jury asked for a complete retraction of all of the allegations. I hope our school district does so and takes the same "high road" that I am in this response, especially with a new superintendent in place.

Throughout your report, an unbiased assessment of my past efforts as a loyal District employee, leading to my principalship at Marsh Junior High, was recognized and acknowledged in much the same way as it was by countless members of the Chico community who supported the school through volunteerism and financial contributions. These same people, when these allegations arose, bravely and repeatedly came to our school's defense in public forums and through other "shows of support." I am saddened that my passion for the success of Marsh Junior High School and its students had any part to play in creating the chaotic schism that this debacle caused and which still exists within the District. That said, it is time to move on, put this ordeal behind us, and repair in a positive way the mistakes of the past.

It would be my fondest hope to once again devote my labors to "raising the bar" for the students throughout the entire District. Thank you for making this goal more achievable.

I believe the hard work the Grand Jury put into their report deserves a detailed, line-by-line response to each point. I had planned to do that, but was prevented from timely accessing records or receiving information by the school district administration, and therefore, have been unable to do so. This court granted me a rare extension of time to reply, because of the roadblocks from the district. I will briefly respond without the full documents I had requested:

**Marsh Junior High School Follows the Money  
Findings:  
2004-2005 Grand Jury Final Report Page 12.**

*2. CUSD is not consistent in its implementation of the policies, procedures and advisories that it quotes in its disciplinarily (sic) packet against the former Principal of MJHS.*

I agree with the finding. Colleague administrators, teachers, and support staff have all shared evidence of inconsistencies. Insignificant and routine items had to be defended. The student activities director repeatedly confirmed in letters and statements to the board that all expenditures were approved by her students.

I could list many examples. For the district to deny there are inconsistencies would be to ignore what is openly occurring on a daily basis at all schools. In the allegations filed against me, I was told that ASB funds could not be used to send staff to an activities conference, and yet other schools continue to use the same fund. I defended allegations that we could not use ASB funds to have recognition lunches with students, bring refreshments to PTSO volunteers, have a staff recognition breakfast put on by the students, have our student government provide welcome pencils to new students and give balloons to students on their birthdays, or bring flowers to a student who was in the intensive care unit of the hospital. Each of these items had been done by the same staff for the past 15 years, but suddenly they were deemed abuses. I am troubled that these same expenditures continue without any administrator having to defend against career ruining allegations of impropriety as I did.

I have attached a memo written by the activities director of Marsh to answer questions posed by a current school board member. This memo listed the "allegations" from last year and then detailed the school's *current* practices. The inconsistencies are rampant. When I reported the same information to Assistant Superintendent Kelly Staley during the last school year, no corrective action was taken. The attached memo can give you detailed examples of many of the inconsistencies. When faced with the allegations of abuse, I expected to find that a staff member went to Hawaii or bought a television for his home. Instead, I had to defend buying flowers for a sick child or our student government students bringing water to volunteer parents. Every expenditure was appropriate and approved, repeatedly verified by the student government teacher in the attached memos.

*5. The former Principal of MJHS does not appear to have personally benefited (sic) or "misused public" funds as stated in his disciplinary charge filed against him.*

I agree with the finding. I have attached several memos from the student government advisor confirming that all expenditures were approved. Moreover, in her remarks before the school board, she states, the district never bothered to discuss her class's expenditures with her prior to making their accusations. "I was never contacted to speak to any of the auditors. I have never spoken to the attorney the district hired. I have never spoken to Scott Jones, Randy Meeker, Kelly Mauch about anything concerning ASB dealings. I have never spoken to Scott Brown. The irony is that they all seem to know how I conduct my class and program. They are wrong again. They don't know a thing. What they say is simply not true." She goes on to clearly state how every item was approved by student government.

In the district's first draft response, they questioned several ASB areas dealing with accounts:

The "Principal's Account" was a name attached to a legitimate ASB account as confirmed by the Grand Jury. Every purchase went through approval by the student government class just as was stated by the student activities advisor in her attached memo. It was a "school-wide" account that supported a variety of needs on campus. To say that I received favors from parents, students, and staff because a check had my signature on it is ludicrous. It is also an unproven subjective conclusion. Wouldn't every teacher who gives his or her students ice cream or a treat be faced with the same charge? When staff provides activities and programs to students using ASB funds, does this district claim the principal is personally benefiting? No, because there is no personal benefit. I had happy students and parents, and yet the district continues to allege that this gave me an unfair advantage. The school district's second draft response implying personal advantage or benefit damages my reputation. It is a false and defamatory statement and an insult to every educator who provides positive contributions to their students.

Checks from ASB had a student government treasurer's signature as well as the student government teacher's. As the Grand Jury's report states, it was simply another account, separate from the magazine drive account, or the art department, or the physical education department. It serviced the entire school's requests. It was listed in every report the account clerk prepared for the district business office. The Grand Jury confirmed that in their interviews. They also confirmed that other schools had accounts called "Principal's Account." It is troubling that the district fails to mention that other schools had the same account. As the Grand Jury and the activity director confirmed, all purchases were approved and authorized.

The consolidation of some miscellaneous accounts into one larger account was a recommendation from an auditor and was discussed with the district. Every cent, every transfer, every expenditure was in the account clerk's reports to the district and the yearly audit. Just as the Grand Jury confirmed, not a cent was misspent.

The vending machine account was consolidated with other accounts so that they all went toward school-wide needs. Marsh Junior High was saving for an all-weather track and I asked for approval from the district and was told to save more money. Some other schools use their vending machine money only for one department and isolate its access to only a few. The Marsh student government wanted it consolidated with money raised from sodas, student body card sales, and donations in order to achieve the track purchase. There was nothing improper in combining accounts. All of these actions were documented in every account report the account clerk prepared for the district.

In the first draft response, the district mentions that an LCD projector was purchased after the students rejected it. That is simply not true, and the district cannot support that with any evidence. I personally drove to Sacramento to buy a used projector after receiving approval from student government to buy it for the school at a reduced rate. This is the first time I have heard that the district listed this item as unapproved. The Grand Jury confirmed this. The student government teacher will confirm that this was a student-approved purchase.

The school board stated in their first draft response that used textbooks were sold without authorization. This was another false allegation that the district made, because they failed to discuss it with staff. The Grand Jury confirmed that authorization did take place. The Bidwell Principal sold the same used textbooks after receiving the same authorization from Assistant Superintendent, Kelly Staley, at the same meeting. I have a memo from a Chico Junior High teacher confirming that the Chico Junior High principal was in the process of selling his textbooks after receiving the same approval. Assistant Superintendent Kelly Staley acknowledged to me that she approved the sale of the books and didn't know why the district claimed otherwise. It is unfortunate that so much attention was placed on the selling of these books when it was all approved as we shared. I have also attached a memo from Kurt Rix, Marsh Junior High English department chair, who confirms that obsolete textbooks were only sold after authorization, and the district failed to ask his department prior to making its false accusation.

Although some of these allegations were removed from the second draft response, they were on the CUSD website, discussed at the televised board meeting September 21, 2005, further damaging my reputation in the community.

*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.*

I agree with the finding. This item refers to the year *after* I left Marsh. I want it clearly understood that the "lack of following correct practices" is relevant to the school under a different administration. Serious issues of embezzlement at two schools, money missing at several, illegal fees at the high schools, and deliberate avoidance of district rules appear to be quietly dismissed by the district in their response. The attached memo from a Marsh staff member confirms the lack of compliance in many areas. This is not a criticism of the new administration, but simply verification that the practices mentioned by the district in the allegations against me, were, and remain, accepted practices that continue to this day. The administration selectively enforced compliance against me while allowing the same practices throughout several secondary schools.

*8. During the peak times in fundraising, there is insufficient support available at school sites to insure timely deposits.*

I agree with the finding. There is insufficient support to make deposits in a timely manner when there is no fundraising, so we know it is more critical during the magazine drive. A half time account clerk cannot make the required deposit every time there is \$500 of receipts if she is not on duty. As the Grand Jury included in their full report, I requested assistance with timely deposits and my request was denied. As was stated by

staff and confirmed by the Grand Jury, over \$100,000 was left in the safe for two weeks this past school year.

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

I agree with the Grand Jury's recommendation. With regard to the retraction of allegations against me, the second draft Grand Jury Report is silent. The response by the Board of Trustees merely contains acknowledgement that improvement is necessary. Yet, no allegations appear to be pending against other principals even after the district acknowledges that there is non-compliance at other secondary schools. The singling out of me for treatment as a "violateur," where others are simply grouped as part of the District's efforts "in working toward compliance" is patently unfair and has so damaged my personal reputation and that of my family, that nothing short of a complete and total retraction and apology can be even close to justice.

My former Vice Principal, Frank Thompson, is a good man and lost his position as well. I wholeheartedly support his reinstatement from his unwarranted transfer to the classroom. I have heard from district office personnel, fellow principals, teachers, parents, and many members of the community who have stated their assessments that what occurred was a travesty and that the allegations against Mr. Thompson and me were unfounded.

I appreciate the Grand Jury's confirmation that the Marsh ASB practices were appropriate and accurate. Again, as evidence to support that, the attached memo from the Marsh Junior High Student Activities Advisor confirms that the Marsh practices continued after my departure. In addition, the former student government teacher at Chico Junior High School told me that his school had the same practices and expenditures, but he was asked not to speak about it by his principal. He regretted not coming forward during our hearings and felt his own school administration had let us down by their silence.

The district states in its second draft response that it "does not concur" that other secondary principals had similar practices. However, the impartial Grand Jury investigation has already confirmed that secondary schools had similar practices. Serious issues at other schools seem to be condoned, casually dismissed, or excused by the district, but I was treated so differently two years ago even though it was confirmed there was no misuse. The district response does not offer any specific facts to support this defensive conclusion.

I want to reiterate that the more serious issues of money missing and alleged embezzlement at several schools did not occur during my tenure as principal. The Grand Jury and the school district both confirmed that Marsh accounts were accurate and not a penny was unaccounted for until *after* I left. The District's response to Finding #6 "acknowledges instances of failure" yet has filed no allegations against site administrators regarding these more serious violations. In fact, their response is dismissive in tone.

### **Conclusion:**

I was put in an adversarial position by the district I have loved and have been loyal to in

order to defend my staff and me from malicious and baseless charges. In order to do that, I have had to ask for the support of colleagues, request records and information, and ask for assistance from individuals, which at times caused them to worry about retaliation. This atmosphere results in fear, reluctance, and continues to have a chilling effect on the goals of our district.

It is clear now that the Superintendent never intended for anyone to successfully defend himself from his team of lawyers and support staff. Hindsight is 20/20 and perhaps I should have walked away 19 months ago, but I always thought that reason and justice would prevail. Not many individuals can be as fortunate as I was to have had thousands of community members and an impartial Grand Jury come to their defense.

In defending myself, I have risked losing friends and the possibility of a future in this district in order to clear my name, and the reputations of many of my colleagues. These personal sacrifices have been a far greater loss than anyone can imagine.

I hope you understand how difficult it continues to be to defend against the obstacles, resistance, cover-ups, and harassment that started 19 months ago and can only end with a public retraction and reinstatement to an equivalent position.

Again, I thank the Grand Jury for all it has done and hope that our school board has the integrity and courage to accept and follow your recommendations.

*Jeff Han*  
10/4/05

**From:** Kurt Rix <krix@chicousd.org>  
**Subject:** Fwd: Response  
**Date:** September 22, 2005 2:28:50 PM PDT  
**To:** Jeff Sloan <jeffsloan@sbcglobal.net>

**Begin forwarded message:**

**From:** Kurt Rix <krix@chicousd.org>  
**Date:** Thu Sep 22, 2005 2:27:52 PM US/Pacific  
**To:** randers@chicousd.org, shuber@chicousd.org, jreed@chicousd.org, rrees@chicousd.org, awatts@chicousd.org  
**Subject:** Response

**Dear Board Members,**

**I am the English Department Chair at Marsh. I have read the district's response to the Grand Jury report and am astounded and offended by the insinuation that our selling of used and discarded textbooks was done in a manner that was anything but completely above-board.**

**Any reference that textbooks sold were not authorized is not true. We talked about it at department meetings. Our department counted and sorted the books after receiving authorization from the district office. There was nothing that was underhanded or hidden. The money was then deposited with the account clerk. It was never spent. Please don't insinuate improprieties about any of it where there was none. Had you talked to us who worked there, you wouldn't have written what you did.**

**Sincerely,**

**Kurt Rix**

Dec 15, 2004

To: Jann Reed, School Board Member  
From: Lisa Reynolds, Marsh Teacher and Activities Director

Jann,

I've compiled a list of some of the things we got in trouble for and a list of what we continue to do this year. Am I going to get in trouble for this down the line? Is Steve? Already he is calling the district office for help on so many decisions because he's afraid to spend our money "wrong".

As you can see, these aren't just a few examples, but many. It shows that what we do is called "school" and no one should have been accused last year, just as no one should be accused this year. I hope logic and common sense prevail.

Allegation last year:

***Page 3 of 3 of Gilbert Report: "District funds were used for unauthorized purposes and should be considered a misuse of funds."***

***Last Year's Charge: "Equipment, supplies, forms, postage are all prohibited. Cannot purchase items for classroom use that the district should supply"***

This Year: Even with student approval, these are considered violations according to the standards held against us last year. We have used ASB funds this school year to purchase:

sports equipment, nurse supplies, printer equipment, office furniture for faculty, paper, postage, art supplies, home economics equipment, p.e. Equipment, gym equipment, classroom supplies for Reynolds, Dillavou, Passilas, Dadisman, Stephens, Camy, Dockendorf, Ring, Waddell, Campbell, Rix, videos for history department, drama class supplies, student government class trip, district All-Star class. This is only a partial list. Schools do it everyday. That's why we have fundraisers.

***Last Year's Charge "ASB funds cannot pay for salaries which are the responsibility of the district."***

This Year: ASB has paid for substitute's salary while I was on paid release days.  
ASB has paid for the salary of a district account clerk. No student approval occurred.

***Last Year's Charge: "Prohibited expenses re articles for personal use."***

This Year: Small gifts have been purchased for faculty as a small token to recognize them on their birthday. As petty as this sounds, the district used as an example last year that it was an abuse to buy balloons for a sick student and the principal was ultimately

held responsible for "abuse of funds." Birthday pencils, turkeys for students, book covers,, gift cards for contest winners. A staff breakfast was done (this was listed as an abuse of funds last year).

***Last Year's Charge: "Prohibited expenditures re gifts, loans, credit."***

The district said we couldn't do recognition lunches for students and shared that we couldn't buy food for students or adults.

This Year: We hosted a faculty breakfast, numerous pizza lunches, pizza for volleyball team, pizza for cross country team, awards for students, recognition certificate gift cards, Sunday, November 21 ER showed CJHS pizza party for deserving students (last year's hearings stated that CJHS did not reward students with food), Hot chocolate and doughnuts recognition , doughnuts for classes and clubs. This is what makes school fun. This is why we earn the money.

***Last Year's Charge: "The purchase order procedure applies to all District employees for all purchases of goods."***

This Year: Reimbursements have been made to numerous staff members this year including Lisa Reynolds, Natalie Ring, Amy Waddell. If you can't trust those in charge of the student body to spend the money in a responsible manner, they shouldn't be in the position at all. I use my professional judgment, just as I explained last year as well. I don't do the reimbursements as the rule, but rather the exception, but we have to be able to be reimbursed on occasion. I'm attending the leadership conference in February and will ask those who know ASB forward and backward about reimbursements. From those who I've already spoken, they said it is fine as long as the kids are in the loop. The district used this charge as an absolute last year and held our principal responsible without understanding that it was always appropriate and run through the students.

***Last Year's Charge: "Deposits must be made daily when receipts total over \$500." (This was in the original Matson and Isom audit and we were told it was a central reason for justifying the additional audit.)***

We have repeatedly failed to comply with this. In fact, we had over \$100,000 in the safe for several days without any action being taken to correct it. Every week, we consistently have more than \$500 in receipts without making a daily deposit. Just as we said last year, it is impossible to meet this requirement when we don't have a full-time account clerk on campus. The district focused on an infraction that they knew no school in the district could pass, and then they ignore our non-compliance this year.

***Last Year's Charge: "Using a district paid staff person in charge of the staff social fund." (We were told that utilizing a "district paid employee" to collect and account for the money was an abuse.)***

This Year: We continue to have a district paid staff person in charge of the fund. I am the person this year that collects the money and accounts for it, but I am also a district paid employee.

***Last Year's Charge: "10% classroom accounts from the magazine drive is prohibited."***

*Last year: We were cited for raising money to help classrooms, and we were told that individual classrooms could not get a percentage of the proceeds.*

This Year: We had a magazine drive this year and teachers will submit requests to spend their portion of that pot. The name is different, the purpose is the same.

***Last Year's Charge: "Textbooks were sold."***

*(It is important to remember that we sold obsolete textbooks after being advised to do that from our own district office. Bidwell sold them as well to the same company. The district said in its charges that it was against the law for schools to sell textbooks.)*

This Year: Both high schools sell textbooks on a daily basis. You can look on their web sites. They do it without a fundraising approval, state approval, or district approval. They sell the books for different prices than what the state regulates. According to the district, regardless of good intentions, it is against the law to do this and the principal is committing a blatant abuse.

***Last Year's Charge: "Our Student government sponsored PTSO lunch and supplied refreshments to PTSO volunteers was an abuse of funds because ASB cannot buy parents food."***

This Year: As I shared earlier, we had a Staff Breakfast; we have planned a staff luncheon.

***Last Year's Charge: "School Furniture Cannot be purchased with ASB funds."***

This Year: Magazine drive proposal had lunch tables listed. Desk chair was purchased for the gymnasium office.

***Last Year's Charge: Forms and Postage cannot be charged to ASB***

This Year: Forms and postage have been charged to ASB

***Last Year's Charge: "No ASB funds for CADA (Activities Conference) and no more than two-three people should attend the conference."***

This Year: We plan on attending and charging it to ASB. Other schools will do the same. It even lists ASB as a possible source to send people on the flyer announcing the conference. (Copy attached)

***Last Year's Charge: Procedure Compliance re Gilbert Report- "Bank statements out of compliance."***

This Year: Our audit this year was supposed to happen in early October, but our district delayed it at the last minute when they were told that the account clerk would not have been ready for a clean audit.

This Year: The district has had to pay the Account Clerk from Chico High to come to our school to try to figure out our books. She has spent more than 50 hours just trying to figure out what was in that room. That time doesn't count the time she is now spending to train our new person. We have repeatedly failed the \$500 deposit rule,

***Conclusion used last year: "The principal is directly responsible for all financial activities..."***

As a teacher, educator, and activities director, I want someone to know what went on and what is going on. Our school district made up new standards that no school has ever been held to. As I said, we failed the same standards already this year. Last year, we were given no warnings, no guidance prior to the allegations while other schools were provided opportunities to correct any questionable areas. They are still making changes. Every school this year is doing everything different and everyone so paranoid that it might be "wrong". We are almost at a standstill because nobody knows what to do. We have to call the district for guidance item by item.

Teachers all over the district are saying that their schools are lost. Some schools are scrambling to change the same practices, but don't know how or why. A former Marsh teacher who is now at the high school shared stories of shouting matches this year over ASB violations. The sad part is that we all know, teachers know, even our students know that last year was a huge injustice. Perhaps some awkward corrections may have to be done, but it's the right and just thing to do

I was in charge of 99% of all the expenditures last year and can state unequivocally that we simply were doing our jobs, and continue to do so today, we made every decision with the best of intentions, just like we are doing this year, and the efforts to misrepresent our honest efforts and expenditures to discipline our principal should now be clear to you as a horrible injustice. Again, thank you for listening and thank you for your time.

Date - 3-17-04

Re: Response to Dr. Brown's accusations

From: Lisa Reynolds, Activities Director, Marsh Junior High

To Whom it May Concern,

This letter is in response to the charges made against Mr. Jeff Sloan and the Marsh Junior High School ASB accounting procedures. I am really not sure how to begin, but I'll start with a little about my background and experience with the district. I was hired in August 1989 at Chico Junior High School as a history teacher. In the spring of 1990 I was asked by Jeff if I would consider being the Activities Director. I accepted. I served as a history teacher and Activities Director from 1990 - 1999 at Chico and then as teacher/Activities Director at Marsh Junior High from 1999 - present.

In my tenure for Chico Unified I have been named Teacher of the Year by the Masonic Lodge, been given three years of honors from the PTSA at Chico Junior High (Honorary Service Award, Continuing Service Award and Golden Oak Award), served as a mentor teacher for the district and am also a BTSA Support Provider. I have served with the respect of the other Activities Directors on the other Chico campuses as well as the respect of the Chico community.

To say that I am aghast at the charges that the Superintendent has brought against our school would be the understatement of the year. As the records will clearly show, I have followed the same accounting procedures/processes for the entire time I have served as Activities Director. It should be known that this position is an "extra assignment" and doesn't require any additional degrees or special training. I have attended yearly conferences (California Association of Directors of Activities- CADA) for approximately 12 years in an attempt to learn new activities and ideas to keep our campus fun and alive, but at no time have I ever been instructed about financial processes or procedures. I have let common sense and good judgment be my guide in any financial expenditure and always given it the "is this a reasonable expenditure test" before discussing it with my leadership students.

I don't read "legalese" very well, but from what I can gather from the document put out by Superintendent Brown, some of the expenditures made by the students are in question. Let me refer the reader to page 2 of 3, #3 Unauthorized Accounts:

What this section is referring to are accounts set up for teachers for their classroom use to purchase supplies and materials not supplied by the district. They earn this money through the magazine drive fundraiser. They earn 10% of the

amount their home room generates for use in their classroom that year. All money is accounted for through proper receipts, check, requisitions, etc.... I have been doing this for 14 years. Why haven't I been told before yesterday that this isn't okay? Does Dr. Brown know that the other junior high school's do the same thing and have done the same thing for as long? Shouldn't we have been alerted to this as not being okay and given a chance to change our procedures before we are charged with wrongdoing? Shame on the district administration for allowing this for fourteen years.

What is also very important for the public to know is that we have yearly audits conducted by Matsom and Isom Accountancy **every single year**. Never, in 14 years of doing this job, have I been told that anything I do is wrong or out of compliance. **NOT ONCE**. Like I said at the beginning of this letter, I am not an accountant, I do not hold an administrative credential. I am a classroom teacher doing an extra assignment. If there are strict policies and procedures that need to be followed, shouldn't I or the account clerk be trained and instructed in these? I've had no training, and as I said, I employ common sense and good judgment to evaluate my actions.

Another "charge" of impropriety I'd like to address is our staff fund. Each year, again for 14 years, we collect a sum of money ( \$10.00 - \$20.00) from each staff member to pay for a variety of things throughout the year such as flowers for bereavement or babies, food at parties, etc. We hold it with our account clerk. Number 2 on page 4 of 7 says we can't do this? Why not? Since when? Look at the other sites and you'll see the same thing that we do. We actually run it through our account clerk to **REMOVE** any sense of impropriety that keeping a wad of cash in a drawer might invoke. It's all just ridiculous.

Lastly, on page 4 of 7, number three, it says, "There exists a serious lack of control over purchasing for ASB accounts, as the majority of purchased occur prior to authorization. The general ASB student council or the club representative should approve purchase orders prior to a a purchase being made." Money is never spent without discussion and consensus. I always have discussions in my Student Government class before we do anything. Have I kept journals and ledgers of these discussions? No. Have I ever been asked to or thought that I was supposed to? No. My students and I usually find it easier to buy whatever it is and then be reimbursed because it is difficult to know exactly how much said purchase will actually be. We never spend money without consent and knowledge and that charge is flat out wrong. Again, in 14 years of doing it this way, this is the first time I've ever been told in constitutes an ASB out of control.

I hope you are beginning to see what a sorry witch hunt this is. Scott Brown used over \$7,000.00 of public dollars in a dire financial year to finance his own personal vendetta against Jeff Sloan.

Final

April 27, 2004

To: The Board of Trustees  
From: Lisa Reynolds, Activities Director, Marsh Junior High School  
Re: April 23, 2004 document from Bob Latchaw to Jeff Sloan

I feel compelled to respond to parts of this memo in which my actions have caused Mr. Sloan to come into question. I will begin by asking you to think about the answers to the following two questions as you read my response and then again as you look at the second document presented to Mr. Sloan by the Superintendent.

1. How did we, as a community of caring, supportive and fair-minded individuals, ever allow this situation to progress to this ugly, trial-like attack on a man who has committed no crime? and,
2. Knowing that Dr. Brown had several options at his dispense in which to deal with his concerns regarding Jeff Sloan, do we, as a community, believe that all interests are being best served by the course of action that Dr. Brown has chosen to pursue or does it now seem like more of a personal attack veiled as audit exceptions?

I think the answers to these questions are a very revealing part of this entire debacle. I feel betrayed by the man who we have placed in our community's highest educational position and I think he has played us all for fools. I am offended and disgraced by his allegations and further that I am now in a position to explain myself and my actions. I have worked very hard for this district for 15 years giving of my time, energy, and enthusiasm to a profession that I love dearly. I have gained a positive reputation throughout these years and now, in the course of a few weeks, Dr. Brown has taken all of those years of hard work and my reputation as well and has smeared me with innuendo of misdoing. I am nothing short of outraged. How can he be allowed to do this in a 21st century democracy? To respond to this document is to validate its content. To not respond is to allow misinformation and lies to go unchallenged. I resent being placed in a lose-lose situation, but in the name of truth and justice, I will respond. I can only imagine how Mr. Sloan must be feeling right now.

I begin on page 4 item C. Training Provided the Principal Regarding ASB Accounting

I too have attended the CADA conferences many times and I have attended sessions on ASB accounting. Not knowing if their information supersedes our districts' own

policies, it was confusing listening to them. People would raise their hands and ask if such and such was an okay expenditure of ASB funds and the answers always confused me. They would say such thing as yes, it's okay if.... Or no, you can't do that unless.... It became very clear to me early on in this job that the rules for ASB spending are vague and open to interpretation just like our U.S. Constitution. A common term is "best practice". I have no doubt that our expenditure would meet the "best practice" litmus test, however, if there is another way the district would like us to operate, simply tell us and consider it done. Very simple.

### Page 6, E. Magazine Sales

This document states that we had attendees at a conference without ASB approval. How would they know this? I have still never spoken to anyone about my practices or records that I keep. No one has asked to speak to me. How do they know? The real truth? ~~Yes, there was student approval.~~ I told the kids that the reason we do so well in the magazine drive and the reason our campus is alive with excitement is because our teachers support us in our activities (Student Government). I told them this conference is a way for them to be rewarded for their hard work and commitment and also be reminded how important the school climate is to a successful campus. I took people who did extra things for our students and our campus. I took club advisors, counselors, intramural coordinators and the yes, the secretary who helps do everything. The Student Government class was completely supportive of this request. How dare the district jump to the conclusion that it wasn't approved without even talking to me? Do you also know that the other two junior high schools take their supportive teachers to the conference as well? One part of me would like to see this kind of an examination and investigation at the other schools so you can finally see that we are more alike than different, but the other side of me wouldn't wish this experience on even my most hated enemy. I don't care what principal Rob Williams told the newspaper because I know differently. I have been in my position longer than Mr. Williams has been a principal. I have the knowledge. I have been at the conferences with these people.

Additionally, at the top of page 7 is a list of expenditures from our 2001-2002 fundraiser. If our spending was so out of line and inappropriate, why are we talking about expenses made three, almost four, years ago? Unbelievable. Student Government approved the spending for the chairs. We had to keep renting them for each event we held and with no gym in sight, they voted for us to buy our own. Most of the functions were put on for our kids and benefited them directly so we said go for it. The ice machine was another thing the kids brought up and wanted. We had to use the frozen ice pads for injuries and cuts. Kids wouldn't return them, there was no ice anywhere when they really needed it. It was their idea and they approved it. Same thing with the television set for broadcast, the final installment on our marquee, and the 10% to each of the teacher's classes. These were all discussed and approved by the Student Government class. The \$960.00 in gift certificates is a gift from the magazine drive company to the teachers when they achieve certain sales goals. (see attached sheet). They aren't a local company and it

would be too hard for them to purchase these incentives, so I do it. We just deduct that amount from the final amount we send back to them. It's all very simple, very legal. The problem is, again, nobody bothered to talk to me. Why not? They didn't want the answers. They are only interested in the allegations and spreading the innuendo. It's obvious to me. Why isn't obvious to you?

Lastly, still in this same section, Mr. Brown states that the gift certificates were "all used by the Marsh staff at one dinner". This is a bold-faced lie! I haven't even used mine yet and have no idea who has or when they did. Again, how can they jump to these baseless conclusions? If they did it here, where else in this document did they do it? How can this document have any merit at all when it isn't based on facts? They have created the endings or created stories to fill voids when the story didn't seem complete.

Again, I go back to the questions I posed at the beginning of this memo. How did we get here and who has been driving us to this point. Dr. Brown is the answer. He has chosen this course of action without realizing that Jeff is the fighter that he is. He didn't calculate that Jeff would go this many rounds. He thought he would break and give up. We are not letting Jeff give up. He is fighting for more than just his reputation and his career he is fighting for what is right and he is fighting for the people who believe in him. If he were to give up today, Dr. Brown and the attack team at the district office would win. We can't concede to such injustice. I believe in my heart that good will prevail. I've been saying this all along. Call me naive or idealistic, but I think you five men on the board will have the wisdom to see this whole charade for exactly what it is. It is a pre-planned personal attack on Mr. Sloan because Mr. Brown doesn't like his management style. Mr. Brown is not able to use Mr. Sloan as an asset for this community because he feels threatened by him. Mr. Brown's style of leadership is one that puts him clearly and squarely in charge of everything. He needs to be the sole source of ideas for betterment for our district. Jeff Sloan has a wealth of ideas for our district, but Mr. Brown won't have anything to do with any of them. We saw this with our school picture venture.

Our community, our kids and our schools lose if we lose Jeff Sloan. He is the most forward thinking, motivational, and inspirational person I have ever worked for. I work harder because I work for him. When we achieve a goal, we don't sit in the sunshine of our accomplishments, but rather re-set our sites on ever-higher goals. I won't do this for other principals and neither will this staff. That is not a threat, but rather the reality of the situation.

We have a situation that can be handled in a fashion where everyone wins. You, as the board, can create this kind of closure and I urge you to do it sooner rather than later. The layoff notices must be recinded and these two gentlemen should be allowed to continue on with their lives and careers. Our community can't bear much more of this nonsense and I imagine neither can Mr. Sloan or his family.

*Transcript of Lisa Reynolds' remarks to the School Board in March, 2003*

Thank you for letting me address you tonight. My name is Lisa Reynolds and I am the activities director at Marsh Junior High School. Tonight hopefully marks the end of a very long and painful ordeal that our community and school have had to endure. I know you have received a lot of input from various members of this community over the past two months. I will make my statement as brief and concise as I can. As I look over this year's events, four things stand out in my mind as things that cannot be overlooked or dismissed as we work to put closure on this issue.

1st - We have a big problem with our Account clerk's hours. She spends the mornings at Chico Junior and the afternoons at Marsh. That sounds like half at one site and half at another, however, when you look at the time available to the students and the advisor, she spends four class periods at Chico Junior and just two class periods at Marsh. So effectively, she can have contact with the ASB at Chico four of every six days, while at Marsh it is just 2 of every six days. She simply does not have enough time or contact to do her job effectively. If we are going to make increasing demands on an already overworked position, we need to put our money where our priorities are, and support our account clerks at all sites.

2nd - I have been Activities Director through 7 director changes at Bidwell Junior High and now three in just five years at Chico Junior High. Over the course of my tenure I have earned a reputation of being a hard worker and one who runs a pretty effective activities program. As I always tell my students, it takes years, not days or months, to build a reputation, but one simple act can call it into question. What I am incensed to realize is that Dr. Brown has done just that to me and to my reputation in this community. My name is now associated with "misspending", "misappropriations", and other negative connotations. I see now that my reputation is simply a casualty of the war that Dr. Brown declared on Jeff Sloan. He used my job and my reputation as a vehicle in which to impugn Mr. Sloan. This is so wrong. It will take me years to get rid of this association. This is wrong.

3rd - While I am first a history teacher, I take my job as Activities Director very seriously. I so have a copy of the latest state ASB spending handbook put out in 1992. In it, it outlines spending do's and don't's for ASB, however, you'll note on the first page, READ.

There are other documents out that seem to say pretty much the same thing as what our state and district policy say. CASBO is the go-to organization when it come to ASB spending and Mr. Pete Cahn is one of the state's experts. I've spoken to him recently and I've explained in e-mails how I run my program. He says it sound like I'm doing a great job. He also say that you can take students out to lunch with ASB money, you can buy PTSO helpers lunch with ASB money. He says it all comes down to making sure the student government kids okay it and this it seems like a reasonable expenditure. I told him that forty nine our of fifty times, it's the kids who come to me with the ideas for spending not the other way around. Mr. Cahn say that one of the rules of thumb they often use to determine appropriateness is to ask themselves how parents would react it this expenditure was

on the front page of the local newspaper. I would have laughed at this comment if I weren't feeling so serious. The point I make is that the charges that the district makes are simply not true, in fact they are wrong. This whole fiasco is based on information that is wrong.

Finally, I am still somewhat baffled that over the course of this investigation, nobody has talked to me. Nobody has asked me anything. I have never been contacted by Matsom and Isom and have never seen any reports that they have made on our school's accounting. I think that's a problem. I was never contacted to speak to any of the Gilbert and Associates people who conducted the extra audit. I have never spoken to Woody , the San Diego attorney the district has hired. I have never spoken to Scott Jones. I have never spoken to Randy Meeker. I have never spoken with Kelly Mauch about anything concerning ASB dealings. I have never spoken to Greg Einhorn. I have never spoken to Dr. Brown. The irony in this is that they all seem to know how I conduct my class and my program. They are wrong again. They don't know a thing. Several times throughout the document of charges, there is reference to the fact that I couldn't produce minutes or treasurer's reports concerning ASB spending. How would they know if I have them or not if they have never even spoken to me? The truth is, I have this year's documents right here in my hand. Every single month, without fail, we hold a student council meeting in which monthly minutes and treasurer's reports are read and approved. I conduct class meetings every Monday in my leadership class that usually take up the entire period in which every single activities and expenditure is discussed, explained and agreed upon. What they say is simply not true.

In closing, after we put closure the issue at hand, I think a committee needs to be formed to investigate the actions of the district. They, on numerous occasions, have simply not presented accurate or truthful information in their charges and have followed a course of action that looks more like a smear campaign. Can we as a district and community condone this kind of treatment to one of our employees. There must be consequences and accountability for their reckless behavior. We supposedly have a system set up that provides for checks and balances at the administrative level, but in this case, it seems that our entire system failed. A close examination must be made of this entire episode.

Thank you for your time.

## **The Biggs Report**

**S. Lee Funk, Ed.D., Superintendent, Biggs Unified School District (response adopted by the Biggs Unified School District)**

**Exhibits**

**Don McNellis, Superintendent, Butte County Office of Education**

# Biggs Unified School District

300 B STREET, BIGGS, CALIFORNIA 95917  
(530) 868-1281  
FAX (530) 868-1615

S. Lee Funk, Ed.D.  
Superintendent

October 7, 2005

The Honorable Barbara Roberts, Presiding Judge  
Superior Court of California  
One Court Street  
Oroville, CA 95065-3303

Dear Ms. Roberts:

Subject: Biggs Unified School District's Response to Grand Jury Report of 2004-05

The Biggs Unified School District Governing Board on October 6, 2005, officially adopted the Superintendent's Response to the Grand Jury, filed with the court on August 9, 2005, as the District's Response. It will serve as the Board President's Response as well as the High School Principals. If you have need of any further information, do not hesitate to contact me at 868-1281, 250.

Respectfully,

S. Lee Funk, Ed.D.

Cc: Biggs Unified School District Governing Board  
Ralph Vandro, Biggs High School and Biggs Middle School Principal  
Don McNelis, Butte County Superintendent of Schools

# *Biggs Unified School District*

300 B STREET, BIGGS, CALIFORNIA 95917

(530) 868-1281

FAX (530) 868-1615

*S. Lee Funk, Ed.D.*  
Superintendent

## **District's Response to 2004-05 Butte County Grand Jury Report Prepared by Dr. Lee Funk, Superintendent Biggs Unified School District**

August, 2005

The Honorable Barbara Roberts, Presiding Judge,  
Superior Court of California, County of Butte  
One Court Street,  
Oroville, CA 95965-3303

### **Introduction**

The Superintendent of the Biggs Unified School District ("District"), hereby responds to the findings and recommendations in the Grand Jury's 2004-2005 Report ("Report"). In doing so, this response will clarify and correct several serious errors and misstatements contained in the Report.

It is not the intent of the District in this response to criticize the work of the Grand Jury. The District believes however, that it was misled by a small group of dissident teachers who are using the process to retaliate against the District administration and to gain financial concessions in labor negotiations. The numerous allegations raised in the Report had been fully investigated prior to the Grand Jury's inquiry. Many of those allegations had been determined to be false, while others have yet to be litigated.

It is the District's expectation and request that upon review of the matters discussed herein, that the Grand Jury will modify the Report accordingly.

### **Background**

#### *The Problems With Employee Morale Predate The Current Administration*

The Report refers to morale problems and cites them as a reason for the "District's current state of decline." The District strongly disagrees that it is in a state of decline, and refers the Grand Jury to the consistent gains in the Academic Performance Indices (Exhibit 1) as proof.

The District does, however, acknowledge that employee morale has been a concern for over twenty years and thus, did not start with the current administration. As far back as 1982, then-administrators targeted staff relationships and the general learning atmosphere at the junior-senior high schools for improvement. (Exhibit 2).

In 1997, the Western Association of Schools and Colleges (“WASC”) expressed concern to the current Superintendent about the intimidation tactics used by veteran teachers to suppress the efforts of younger staff members who were trying to change the culture at Biggs Middle and High Schools. The WASC stressed the need for all parties involved to give immediate attention to building harmonious, collegial working relationships.

In its 2004-2005 report on the Biggs Middle and High Schools, the WASC recommended that: “The administration and staff create structures for internal communication to resolve differences, primarily involving staff and leadership and employee strategies of team building, mediation and conflict management, and shared decision-making.” (Exhibit 8). The District has and continues to promote a healthy and productive professional relationship among all staff. The District firmly believes that despite its efforts, the negative faculty culture remains, largely a function of the same small minority of teachers who attempt to intimidate the administration as well as fellow teachers who are supportive of the administration.

It is true that there have been fifteen middle/high school principals<sup>1</sup> in twenty-two years and that turnover has been a function of the on-going tumultuous atmosphere referenced above. Four out of five of the previous high school principals since 1996 have expressed grave concerns about the oppositional atmosphere caused by a few hostile staff members. Former and present employees continue to express that same frustration today. It is noteworthy that the average tenure of a principal in California is approximately three years and that Mr. Vandro is beginning his fifth year as Principal at the High School. His predecessor’s tenure was nearly four years.

#### *The District’s API Scores Were Never Under Investigation By California Department of Education*

The Report incorrectly conveys that the high school’s APIs were under investigation by the California Department of Education (CDE). There were errors in the demographic information in the original web site posting by CDE for 2004, which were *discovered* by the Administration. The District in turn notified CDE of the errors. The District’s API information is available on the CDE’s API web site at <http://www.cde.ca.gov/ta/ac/ap/index.asp>.

#### *Maximum Transparency Exists In The District’s Handling of Fiscal Difficulties*

---

<sup>1</sup>There is one principal who serves both Biggs Middle School and Biggs High School. All references to the High School principal shall refer to this person.

The District has addressed its current fiscal difficulties with full transparency. The report implies that investigative reporting discovered and first raised concerns about the District's fiscal condition. In fact, the District was the first to do so. (Exhibit 3). The District continues to keep the public informed through Board agenda, press releases, emails to staff and key community members, and through the Budget Committee, which is composed equally from among classified staff, certificated staff, and the community.

The most significant reason for the current financial problems is the runaway costs of the benefit package for the BUTA Teachers Association. (Exhibit 4). The District raised this topic with as early as the Fall of 2003 and to date the parties still have not reached a compromise. From April of 2004 through October 2004, the Teachers Association refused to meet with the District.

#### *Administrative Leave Has Been Imposed Prudently and Consistent with Law*

There is no evidence that the District has inappropriately used District funds in conjunction with the use of administrative leave. There were only two teachers placed on paid administrative leave during the 2004-2005 school year - one after allegedly inappropriately touching a student, the other after allowing a classroom display of an internet clip of the beheading of an American citizen. In cases where acts of serious misconduct are alleged, such leaves are often necessary pending completion of the investigation. The leave is paid rather than unpaid in order to avoid penalizing employees until the veracity of the allegation can be determined.

It is unclear whether the Grand Jury is advocating that the District allow teachers to continue teaching as normal in such circumstances, but in light of the fact that the use of paid administrative leave is practiced in school districts statewide, the District will continue its current application unless it is determined not to be in the best interests of the District and its students.

#### *The District Has An Aggressive Plan To Address Gang Violence*

While the gang activity in Biggs has increased in the last two years, it is improbable that the problem can be laid at the District's doorstep, especially given that neighboring cities are also experiencing an increase in violence.

The District has developed an aggressive plan to address the problem of gang violence.

Its actions include: securing an interagency grant for a School Resource Officer; continuing involvement by the Superintendent in the Gridley/Biggs Community Safety Force; enhanced night lighting at the school sites; working with staff to update our school safety plan in light of recent threats to the greater Biggs Community; and ensuring additional Gridley/Biggs Police Department (GBPD) security at all of our home extracurricular activities at the middle and high schools; strengthening the partnership between the District and the GBPD by meeting regularly; training for staff and community

members on recognition of gang culture, attire and involvement; and working closely with the District Attorney's office to guarantee the efficient exchange of information when needed. (Exhibit 5)

### *Parents Have Expressed Strong Support For the Administration*

The District has no evidence that parents feel alienated. On the contrary, parents have expressed support for the administration in its efforts to change the culture of the school environment and resolve difficult personnel issues. For instance, in the last six months six parent complaints have been lodged against a small recalcitrant group of teachers at the middle and high schools. In some cases, the parent complaints lead to disciplinary actions against employees. The District believes that those employees who were subjected to discipline have targeted the administration for criticism and retaliation. Due to rules that limit disclosure of personnel actions without the employee's consent, the District is not able to name the teachers, or provide copies of the complaints.

### **Findings and Recommendations**

The District responds to the specific findings contained within the Report, as follows:

#### **Finding 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.*

#### **Response to Finding 1:**

As explained in detail in subsequent responses, the District disagrees that the weight of the evidence substantiates the Grand Jury's findings. In many cases, it does not appear that the Grand Jury closely inspected all of the available evidence, some of which is attached as exhibits to this response. For instance, the Grand Jury asserts that in one case a parent required the assistance of an attorney in order to have a student statement against a teacher withdrawn. This is not true. The District never received notice from a parent that an attorney was retained under these circumstances, nor was any District administrator contacted by an attorney for the parent.

Additionally, Ralph Vandro, principal of the High School, requested an opportunity to respond to allegations made about him and he provided the names of at least thirteen parents or concerned members of the community who could correct misstatements or false impressions

created against the administration. It does not appear that the Grand Jury contacted any of those persons. The Grand Jury did conduct a subsequent phone interview with Mr. Vandro, but before doing so, one of the jury members informed him that it was already “crystal clear” that he and I were responsible for the problems at the high school.

The District disagrees that the Grand Jury was able to “flesh out” employees’ attempts to manipulate it during the course of the investigation. One example of how the District believes the Grand Jury was misled was its assertion that more than a year after the completion of the investigation involving compromising photos of female students, Mr. Vandro circulated the compromising photographs of students for recreational and prurient purposes. The fact is that Mr. Vandro only asked a limited number of staff members to view the photographs *during the 2003* investigation and did *not at any point in 2004* circulate the photographs. Several officers from the Gridley-Biggs Police Department (“GBPD”) investigated the incident and approved of the manner in which the principal conducted the investigation.

The Grand Jury did not detail the extensive investigation conducted by the GBPD nor the fact that the District Attorney declined to pursue the matter. This information is critical to give the public an accurate understanding of the situation, yet the Grand Jury failed to include it in the Report.

#### **Finding 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 Presiding Judge of the Butte County Superior Court. This failure reveals attitudes and competence levels that help substantiate employee complaints.*

#### **Response to Finding 2:**

There were, in fact, two responses to the Grand Jury Report of 2003-2004 sent to the Foreperson, Deputy Court Executive Officer, and others on January 3, 2005. (Exhibits 1&6). The District regrets that both responses were untimely. The District disagrees with this finding to the extent that the Grand Jury used its former untimely response to the 2003-2004 report as a basis for substantiating the employee complaints which are the subject of the current Report. The District’s disagreement is heightened given that the 2003-2004 report was overwhelmingly positive and one of the recommendations was that the District “offer all support possible to the principal and superintendent in their continued efforts to raise the quality of education at this school.” A copy of the 2003-2004 Grand Jury report is available on the Butte County website at [http://clerk-recorder.buttecounty.net/grandjury/grand\\_jury.html](http://clerk-recorder.buttecounty.net/grandjury/grand_jury.html).

**Finding 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.*

**Response to Finding 3:**

The District is unclear on what the Grand Jury means by the term the principal's "desired results," but disagrees that the morale issues in the High School are the result of fear and intimidation by the principal. While it is true that he expects all employees to be accountable for their conduct via discipline and evaluations, the administration bases its decisions on written statements (including complaints), eyewitness accounts and thorough investigation. Performance evaluations are based on negotiated and statutory guidelines.

Similarly, when requiring teachers to perform adjunct duties, the principal adheres to the Master Agreement between the District and the Biggs Unified Teacher's Association which sets forth the type of duties that teachers may be required to perform. That agreement requires that: "In making such assigned or voluntary duty assignments, the Board agrees to seek volunteers, when feasible, to attempt to insure that such duties are shared equitably among the bargaining unit, and to provide as much advance scheduling and notice as possible." When the principal asks for teacher volunteers, or must assign adjunct duties, he is adhering to the procedures specified in the contract, not "singling out" teachers as asserted in the Report<sup>2</sup>.

**Finding No. 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.*

---

<sup>2</sup>Teacher volunteer efforts play an important part in campus life because they convey support and interest in student development. Obtaining teacher volunteers has been difficult lately. In fact, the Student Body President wrote an open letter to the faculty urging more participation by teachers at school events. (Exhibit 9).

#### **Response to Finding 4:**

The District disagrees that the principal mismanaged employee needs, student discipline, and citizen complaints. On the contrary, Mr. Vandro has been charged with the task of changing the environment from the highly confrontational one perpetuated by a few dissident teachers to one where collaboration is the norm. To do so, he consistently holds all employees to the same high standards of performance and conduct in their dealings with him, their colleagues, and students. There are times when investigations of misconduct result in employee discipline or other unpopular personnel decisions. As a result, he has been the target of unwarranted complaints, hyperbole, and innuendo by some employees.

In cases where employee discipline was imposed, statements from student and parent witnesses and subsequent investigation overwhelmingly support the necessity of the action taken. Without a waiver of confidentiality from the employees involved, state law prohibits the District from disclosing the identities and specifics of employee discipline matters.

Some investigations of employee misconduct have been initiated by parent complaints and there has not been one case in which a complaint has gone unaddressed. One such parental complaint of employee misconduct referenced in the Report was the case in which a student had been allowed to play a video clip in the classroom of a beheading of an American citizen in Baghdad. As part of the District's investigation, students involved were interviewed and asked to write statements of what had occurred in the classroom. Eleven students wrote statements, one of which was later retracted. One student wrote: "In all my life I never thought I would hear screaming like that. It was so scary. The sound of his yelling pierced my ears. To this day I can not (sic) get the sound of his screaming out of my head. I then got scared, plugged my ears and went back to my seat. ... Tears started falling on my desk as the screams got louder. No matter how hard I held my ears I could still hear the screaming."

Contrary to the Report, the teacher who allowed the video clip to be shown in class was not on a "hit list" of teachers targeted for retribution. No such list exists. The teacher disagreed with the outcome of the investigation and subsequent actions the District took. That individual is one of the group of disgruntled employees whose response to discipline is generally to accuse the administration of retaliation and harassment in the form of threats, unfair reprimands, and biased performance evaluations. Although they have no basis in fact, allegations of this sort impose a high cost to both the District, and ultimately the community, in the form of legal fees and low morale.

Like employee discipline, student discipline is managed swiftly but with fairness. One example of the principal's efficiency in addressing student discipline is the incident cited in the Report. Two compromising photographs of students were taken and circulated via email. School staff brought the photographs to the principal's attention on January 22, 2003 and by January 31<sup>st</sup> he had conducted an investigation and disciplined the students involved. The parents of the

students approved of how the investigation was handled and the discipline imposed. The Girdley-Biggs Police Department determined that the principal's investigation was appropriate.

The District disagrees that it is Mr. Vandro's conduct that has made the District vulnerable to legal action. Every public agency is subject to civil litigation, and the District is no exception. However, since 1996, the District has prevailed in all but two actions.<sup>3</sup> Information about District litigation is available on: [http://www.buttecourt.ca.gov/online\\_index/default.htm](http://www.buttecourt.ca.gov/online_index/default.htm).

**Finding No 5:**

*On April 29, 2005, the CCTC recommended a public reproof.*

**Response to Finding No. 5:**

The District acknowledges that a committee of the CCTC recommended a public reproof of the Principal. However this is merely a recommendation, and no formal action will be taken by CCTC until the conclusion of a hearing on the matter. See Response to Finding No. 6.

**Finding No 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.*

**District's Response to Finding No. 6:**

The District disagrees with the spirit of this finding because it implies that Mr. Vandro's actions were improper. They were not. The District believes that it is necessary for the Grand Jury to know the context in which Mr. Vandro allowed others to view the photographs.

As noted in the Response to Finding No. 5, in January 2003 High School staff members alerted the principal that two photographs (one of two topless female students and another of a nude adult female identified in the email as a teacher at the high school) were circulating via student e-mails. During the investigation the principal showed the photographs to a very limited number of staff for the specific purpose of determining where the photographs were taken and how they were disseminated. The staff members were chosen because they had knowledge that could aid the investigation. Within 10 days, the principal had completed the investigation and disciplined the students involved. By that time he had also determined that the nude adult female in photo was not a Biggs employee.

---

<sup>3</sup>

In one of these cases the District prevailed in part, and lost in part.

Approximately 17 months later, in June 2004, some of the teachers who were shown the photographs in January 2003 complained, *for the first time*, that it was improper of the principal to have shown them the photographs. The District does not know the precise reason that these employees waited 17 months before complaining, but it notes that the complaints arose soon after a round of unpopular layoffs and a labor arbitration.<sup>4</sup>

Notwithstanding the timing of their allegations, upon receiving the employees' complaints, the Superintendent conducted his own investigation of the matter, as did the Gridley/Biggs Police Department (GBPD). Both determined that the principal's actions had been appropriate. Then Police Chief Jack Storne notified the District that the GBPD's investigation concluded that the principal showed the photographs to a small number of Biggs High School faculty members for the limited purpose of investigating the misconduct by the students responsible. The District Attorney was informed of the allegations but declined to pursue the matter.

Subsequently, the employees forwarded their complaints to the California Commission on Teacher Credentialing (CCTC). A committee of the CCTC found that there was probable cause to recommend a public reproof of the principal. This is not a formal action by the CCTC, but rather, a recommendation from a committee of the CCTC. The principal has requested a hearing to challenge this recommendation. It should be noted that the principal has not had an opportunity to fully respond to the allegations by the complaining employees. At the conclusion of the hearing, the CCTC will either dismiss the allegations or adopt the recommendation against the principal.<sup>5</sup>

#### **Finding No. 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.*

#### **Response to Finding No 7:**

The District agrees that morale is low and refers the Grand Jury to its Response to Finding No. 1 for the historical perspective of the reasons for longstanding low morale. The District

---

<sup>4</sup>In fact, the GBPD officers who investigated the matter openly speculated whether the teachers' complaints about being shown the photographs were motivated by the fact that they all were involved in disputes with the administration.

<sup>5</sup>The hearing officer can either dismiss the allegations, confirm the recommendation, or impose a greater sanction against the employee.

disagrees with the remainder of Finding No. 7 and believes that the Grand Jury's conclusions about the reason for low employee morale are likely based on interviews with only those few employees who have alleged harassment and retaliation by District administration for legitimate personnel actions.

In regard to District turnover rates "far above acceptable levels", it is unclear what criteria or standard the Grand Jury considers in measuring an "acceptable level" of staff turnover. It is the District's practice to attempt to retain all teachers who meet state standards and do not warrant extreme disciplinary actions. However, economic realities often necessitate taking difficult personnel actions in the form of layoffs.

The Grand Jury's assertion that the District targets older, more experienced teachers is false. Of the 20 certificated employees who received layoff notices in the past two school years, none of those employees were among the most senior certificated employees. The District cannot ascertain what evidence the Grand Jury has relied on in finding that the District has attempted to force out older, more experienced staff. Similarly, the Grand Jury's assertion that "long-term faculty have been departing because of unresolved problems..." is confusing because there have been neither layoffs, terminations, nor early retirement of senior certificated staff at the Middle or High School in either of the past two school years.

The District also disagrees with the finding that there is a "systematic" failure on the part of the District to include teachers in the decision-making process. Most of the rules and guidelines for certificated working conditions are mutually agreed upon in collective bargaining. The District has not denied teachers the opportunity to participate in decision-making as appropriate.

**Finding No. 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 one surfaced as the Grand Jury looked into the personnel record of a teacher. It was unclear whether the principal had fabricated a reprimand of that teacher or failed to report.*

**District's Response to Finding No. 8**

The District disagrees wholly with Finding No. 8. The Child Abuse and Neglect Reporting Act (Penal Code §11164 et seq.) requires that specified persons, including school employees, who, in the person's professional capacity or within the scope of the person's employment, have knowledge of or observe a child whom the person knows or reasonably suspects has been the victim of child abuse or neglect report the incident to a child protective agency. (Penal Code §11166(a)).

The photographs were taken of students by students as part of a prank. The parents were informed and discipline administered. There was no reason to suspect that the students in the photograph were the victims of child abuse or neglect. Throughout this entire unfortunate episode, the District consulted with legal counsel in order to ensure that its actions complied with applicable laws.

It does not appear that the Grand Jury conducted a full investigation into the facts regarding the photographs of the two students. However, the GBPD did conduct a full investigation and along with the District Attorney determined that the District acted appropriately. Thus, there is no evidence to conclude that any District administrator violated mandatory reporting laws.

The Grand Jury cites “perhaps” a second incident where District administrators failed to comply with mandated reporter laws. Without additional details the District is unable to respond with certainty to this claim.<sup>6</sup>

**Finding No. 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.*

**District’s Response to Finding No. 9**

The District disagrees wholly with Finding No. 9. The Report notes that there have been at least thirteen high school principals in the last fifteen years at the District. In fact, over the last twenty-two years there have been fifteen principals at the High School. It does not appear that the Grand Jury interviewed any of the prior administrators. Had it done so, it would have learned that the working conditions at the High School for administrators have proved challenging for years, in part due to the tactics of a small group of teachers.

Given the challenging atmosphere on campus, in the years preceding Mr. Vandro’s appointment, the District began placing greater emphasis on candidates with firm and resolute leadership skills. The District has found such a person in its current high school principal. Predictably, and consistent with recent history, a few teachers have fiercely resisted the structure

---

<sup>6</sup> The District believes that this allegation pertains to an investigation in 2003 involving a teacher’s use of unnecessary physical force against a student. The teacher, who now supports the allegations against the District, asserted that if he was going to be subjected to potential discipline, District administrators should also be disciplined for failing to report the incident as child abuse. In that case the incident involved contact which resulted in no serious injury. The District took immediate steps to discipline the teacher and ensure the safety of the student, but under those circumstances the level of force or intent did not justify reporting the incident as child abuse.

and accountability that he brings to the High School. The Superintendent and Board of Trustees support his endeavors to hold employees accountable for their conduct and play a key role in implementing the serious educational and policy reforms necessary to improve student achievement. In regard to the Grand Jury's assertion that the Superintendent and Board of Trustees are misplacing their trust in the current principal, they disagree. Mr. Vandro was named Secondary Principal of the Year by the Butte County Administrators Association for 2004-2005.

The District disagrees that the school system is dysfunctional. On the contrary, the Superintendent and Board of Trustees have played an active role in improving scholastic achievement while successfully managing this District in the face of difficult economic circumstances. API scores have been rising, WASC issued a favorable recommendation in its 2004-2005 report on the Biggs Middle and High Schools, and employees are being held accountable for their actions to a greater degree now more than at any other time in the past several years.

**Finding No 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.*

**Response to Finding No. 10:**

The District disagrees wholly with Finding No. 10. The District administration and Board of Trustees have cooperated with the Grand Jury as fully as possible without breaching employee confidentiality. The Board of Trustees, through the Superintendent, requested that the Grand Jury subpoena all of their members to appear, in an effort to provide as much information to the Grand Jury as possible. Notwithstanding that request, the Grand Jury only subpoenaed two trustees, one of whom's term had already expired by the time of her interview. Nor did the Grand Jury subpoena the only active trustee who was serving on the Board at the time of the photograph incident. The Grand Jury did not call relevant witnesses identified to them by the District providing contact information.

The District believes that the Grand Jury's failure to obtain all the available information is the reason for many of the factual inaccuracies in the Report. As for being "coached," the District's legal counsel has on several occasions instructed board members on confidentiality laws and the penalties for illegal disclosure. The Trustees chose to follow the advice of counsel and it stands to reason their explanations of confidentiality to the Grand Jury would sound similar.

**Finding No. 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.*

**Response to Finding No. 11:**

The District wholly disagrees with Finding No. 11. The Grand Jury's inference that personnel legal actions involving the District have damaged its reputation belies the fact that litigation of personnel actions, especially layoffs and dismissals for cause, is a routine occurrence in most school districts. Inevitably, the system often facilitates tension between employees and management. The fact that the District is usually the prevailing party leads to frustration by employees.

As referenced in the response to Finding No. 4, since 1996 the District has prevailed in all but two lawsuits to which it was a party. In both cases, the District paid the prevailing party, though in one action it did deduct from an employees award an unpaid expense from a business trip. The District disagrees with the Grand Jury's implication that two unsuccessful verdicts in ten years reflects a pattern of management behaving "outside the norms of acceptable employment practices".

**Finding No. 12:**

*Testimony reveals that, based on excessive targeting of older, more costly teachers, interference with union activities, displays of sexually explicit photographs, and frequent poorly justified disciplinary actions taken against "Hit List" teachers, recent conduct by the administration has opened the District to additional legal claims.*

**Response to Finding No. 12:**

The District disagrees with Finding No. 12. The District conducts all its personnel actions and negotiations consistent with applicable law, board policies, and the collective bargaining agreement ("CBA"). The District does not target veteran teachers. The District is of the opinion that teachers who view themselves as being on a "Hit List" are the ones who are currently the subject of discipline and/or who deservingly received unsatisfactory performance evaluations.

**Finding No. 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.*

**Response to Finding No. 13:**

The District agrees that teachers are the core of the educational process and that veteran teachers are a valuable commodity and ought not be abused or squandered. The District rejects the inference that it has “abused or squandered” teachers. It does, however, hold all teachers accountable for their performance and conduct. Thus, the District has and will continue to investigate complaints of teacher behavior and discipline teachers as warranted.

The District acknowledges that a small group of faculty have created a work environment that is often divisive and fraught with tension. For those teachers who genuinely put forth their best efforts, it does take a certain measure of courage to endure this fractious environment created by a few who seek to use divisiveness as a means to preserve the status quo.

**Finding No. 14:**

*The trustees of the school board apparently do not have a mechanism to effectively monitor grievances and complaints against the District.*

**Response to Finding No. 14:**

The District disagrees with this finding. It is not clear to the District whether the Grand Jury failed to examine the current certificated bargaining agreement and board policies or simply deemed them to be irrelevant, but the District does maintain a the mechanism to effectively monitor grievances and complaints against the District.

Article VIII of the CBA between the District and the BUTA provides the mechanism for processing employee grievances. Per the agreement, this includes an employee’s right to bring his or her’s dispute to the Board of Trustees if it cannot be resolved at a lower level. The District strictly adheres to the procedure.

Additionally, several board policies exist that provide the public with a mechanism to present criticisms or complaints regarding school policies, programs, or personnel. (Exhibit 7)

**Finding No. 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.*

**Response to Finding No. 15:**

The District agrees with Finding No. 15.

**Finding No. 16:**

*Based on the results created by this administration, is reasonable (sic) to conclude that they have exactly the educational environment they intended.*

**Response to Finding No. 16:**

The District disagrees with this finding and objects to its sarcastic tone as it is both counterproductive and inappropriate. The District continues to seek a collaborative and productive environment for both students and employees, and will continue to make the necessary educational and policy reforms to improve student achievement. The District also maintains that it will neither ignore instances of employee misconduct nor avoid making personnel decisions that are in the best interest of the school and the community simply to avoid controversy.

The District responds to the specific recommendations contained within the Report, as follows:

**Recommendation No. 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.*

**Response to Recommendation No. 1:**

The recommendation has already been implemented. The District has been working closely with the Butte County Office of Education (BCOE) since October 2004 in this regard. The Administration meets at least once per month with BCOE staff and representatives from the Administrative Services Department. A Fiscal Crisis Management Team visited the District and noted in a meeting with the District's Business Manager and Superintendent that the Administration was adequately addressing the situation.

It is not clear to the District what attempts, if any, the Grand Jury made to ascertain the degree of cooperation between the District and BCOE before making this recommendation, but in

the absence of any specific directive, the District believes its current working relationship with the BCOE in addressing fiscal challenges adequately addresses this recommendation.

**Recommendation No. 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.*

**Response to Recommendation No. 2:**

The recommendation has been implemented. As soon as the District's response to the 2004-2005 Grand Jury Report is made public, a public forum will be convened to discuss the report and the District's response. At present, this public forum is scheduled for Wednesday, August 10, 2005.

Additionally, the Superintendent has requested that the Board of Trustees evaluate the current High School principal and himself in closed session immediately after this meeting.

**Recommendation No. 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.*

**Response to Recommendation No. 3:**

The recommendation requires further analysis to determine the feasibility, cost, and other practical considerations for initiating these recommended one, three, and five year plans. This matter will be placed on the agenda at the next regular meeting of the Board of Trustees for discussion. The District believes this recommendation would be sound advice for any public agency and is worthy of consideration.

**Recommendation No. 4:**

*The administration must immediately cease and desist from its present behavior, which has intimidated staff and lowered morale.*

**Response to Recommendation No. 4:**

The recommendation will not be implemented because it is not warranted nor reasonable. The District has acted in accordance with law, board policies, and the applicable collective bargaining agreements and will continue to do so.

**Recommendation No. 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.*

**Response to Recommendation No. 5:**

The recommendation has been implemented (See District's Response to Recommendation No. 2).

**Recommendation No. 6:**

*Policies and procedures for the BUSD are in need of immediate revision and should all be in written form.*

**Response to Recommendation No. 6:**

The recommendation cannot be implemented because it is overbroad. The Grand Jury has not identified the specific policies or procedures. In instances where the Grand Jury has asserted policies do not exist, the District believes it has adequately rebutted such claims in this response. District policies and collective bargaining agreements are available for review at every school site and the District office. Every employee has an electronic copy of the collective bargaining agreement relevant to the unit to which s/he belongs. Federal, State, and local legislation are on shelves in the District Office and available through the web.

Policies and procedures are revised on a regular basis, including when necessary to address changes in existing law, revisions to collective bargaining agreements, or when such changes are deemed necessary to serve the best interests of the District, its students and employees.

**Recommendation No. 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 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 to Recommendation No. 7:**

The District does not agree that its actions toward the Biggs Unified Teachers Association (BUTA) is oppositional or otherwise hostile. There is a distinct difference between not conceding to labor demands which will negatively impact the District, and refusing to cooperate with BUTA to reach mutually beneficial solutions to any outstanding labor disagreements.

Therefore, while the District disagrees with the assertions in this recommendation, it will undertake further analysis to determine how best to implement the spirit of the recommendation, i.e. continuing to improve the relationship between the District and its employee organizations in order to reach agreements that are in the best interests of the District, its employees, and its students.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Lee Funk", written in a cursive style.

Dr. Lee Funk  
Superintendent  
Biggs Unified School District

# **EXHIBIT 1**

# *Biggs Unified School District*

300 B STREET, BIGGS, CALIFORNIA 95917  
(530) 868-1281  
FAX (530) 868-1615

*S. Lee Funk, Ed.D.*  
Superintendent

January 3, 2005

Tim Colbie, Foreperson  
Butte County Grand Jury  
P.O. Box 110  
Oroville, CA 95965

Dear Mr. Colbie:

Subject: Response to 2003-04 Grand Jury Report.

Progress reports on all the schools in our District (Biggs Elementary, Richvale Elementary, Biggs Middle, Biggs High, and the two Community Day Schools – combined into one account) are enclosed. These documents should answer any questions related to our Academic Performance Indices (APIs) as reported in the media. They also constitute a re-evaluation of improvement recommended by the 03-04 Grand Jury Report. Additional information about our District is readily available via the web. The address of our home page with a wide variety of links is: <http://www.biggs.org>.

There are a few concepts that should be kept in mind in reviewing the data presented herein:

1. Academic progress at any single school site should be considered on a longitudinal basis, i.e., for a minimum of a three year period (preferably over five years) to fairly ascertain school performance.
2. The enclosed reports contain figures for six years (1999-2004), thereby providing reliable indicators of success, especially in light of the fact that testing occurs in only nine (9) grade levels (2<sup>nd</sup> through 11<sup>th</sup>). Hence, two thirds of the District pupils, site by site, have been assessed.
3. The State Board of Education has determined that a five (5) point gain in an API is the minimum acceptable level for any school. The lowest average over the time-span during which measurement occurred in our District was thirteen point four (13.4), while the highest was twenty-four point seventy-five (24.75), both well above required measure.
4. The target number for APIs throughout California is eight hundred (800). All our schools are climbing steadily toward that goal and one (Richvale) has hit it three years in a row (barely missing it in 2004 by five – 5 – points).
5. There is no numerical rating in alternative education (in our case, our Community Day Schools). Therefore, we are presenting other measures of success (e.g., discipline rates).

If I can be of further assistance. do not hesitate to contact me.

Respectfully,



S. Lee Funk, Ed.D.

Cc: Biggs Unified Governing Board  
Biggs Unified Principals  
Parent Association Officers  
Site Council Chairs  
Community Day School Instructors  
Dawn Merlo, Biggs Unified Assessment Coordinator  
Andrea Nelson, Deputy Court Executive Officer

### **Progress Since 1999 at Biggs Elementary**

- 1999 Academic Performance Index – 581
- 2000 Academic Performance Index – 669
- 2001 Academic Performance Index – 694
- 2002 Academic Performance Index – 678
- 2003 Academic Performance Index – 707
- 2004 Academic Performance Index – 686
  
- *Average of 17.5 Points Per Year.*
  
- Federal Measure of Annual Yearly Progress Met for 2004?  
**Yes.**

### **Other Accomplishments Since 1999**

- Implementation of New Reading Series
- Implementation of New Math Program
- Regular Assessments throughout School Year in Reading and Math
- Standards Based Report Cards
- Expansion of After School Program in Academic Areas
- Strengthening of English Language Learner Program
- Early Intervention Model for Special Education Services
- Positive Participation by Parents and Community Members
- More Cohesive Gifted and Talented Education Program
- Initiation of Reading Recovery
- Band and Music Program Strengthened.

### **Progress Since 1999 at Biggs Middle School**

- 1999 Academic Performance Index – 611
- 2000 Academic Performance Index – 638
- 2001 Academic Performance Index – 617
- 2002 Academic Performance Index – 620
- 2003 Academic Performance Index – 632
- 2000 Academic Performance Index – 682
- *Average of 14.2 points per year.*
- Federal Measure of Annual Yearly Progress Met for 2002 through 2004?

**Yes.**

### **Other Accomplishments Since 1999**

- A Schedule Designed Around “Taking Center Stage” Recommendations
- Core Teachers Follow Students through Grade Levels
- Block Scheduling Geared to Thematic Instruction and Staff/Student Connections
- Quarterly Enrichment Days
- Most Extensive After School Program in the County
- Student Success Team Process Strengthened
- Quest Program Implemented
- Increased Collaboration Among Staff
- A New Computer/Resource Room
- Creation and Maintenance of Identity Separate from Biggs High School
- Tutorial Periods

### Progress Since 1999 at Biggs High School

- 1999 Academic Performance Index – 616
- 2000 Academic Performance Index – 652
- 2001 Academic Performance Index – 590
- 2002 Academic Performance Index – 626
- 2003 Academic Performance Index – 627
- 2004 Academic Performance Index – 683
  
- *Average of 13.4 points per year.*
- *Federal Measure of Annual Yearly Progress Met for 2002 through 2004?*

*Yes.*

### Other Accomplishments Since 1999

- Establishment of Six Period Day, Allowing for Daily Rigorous Instruction
- Incorporation of “Reading Counts” into the Curriculum
- Overhaul of Instruction in Core Subject Areas and purchase of texts to Concentrate on Standards
- “Adoption” of 39<sup>th</sup> Percentile Students
- Student Success Team Process Strengthened
- Continual Improvement on Scores for High School Exit Exam
- Full Inclusion and Team Teaching for Most Special Education Students
- New Progressive Discipline Plan Implemented
- More Rigorous Credit Requirements and Reduction of Electives Now Necessary for Graduation

## **Progress Since Implementation (2000) at Community Day Schools**

- **First Graduate, Spring 2004**
- **Two More Students May Graduate in 2005**
- **Reorientation to Academic Rigor**
- **Reduction in Major Indicators of Student Discipline Problems for Three Years Running as Measured by:**
  - **Unexcused Absences**
  - **Tardies**
  - **In-School Suspensions**
  - **Out-of School Suspensions**
- **Increased Positive Parental Involvement**
- **Back-to-School Nights/Open Houses**
- **Participation in State Assessment and Reporting (STAR) Process**
- **Community Projects, e.g., Assistance with Decorations Downtown**
- **All Coursework Individualized, but Still Aligned with Standards**
- **Student of the Month Program**

# **EXHIBIT 2**

M E M O R A N D U M

DATE: June 9, 1982

TO: [REDACTED]

FROM: [REDACTED]

SUBJECT: Principal's Objectives for 1981-82

Attached please find a copy of Goals for 1981-82, a memo dated 12-15-81, an evaluation dated 2-22-82, and an open letter shared during teacher inservice training on September 3, 1981.

My comments on the Goals for 1981-82 will follow the 10 areas listed:

1. I believe we have achieved Goal #1 as our School Site Council has developed into an informed, active and positive influence on our campus. We have met and exceeded the goals listed in the S.I.P. program for 1981-82.
2. This goal has not been achieved. There continues to be reluctance on the part of several teachers to become involved in the process of student advisement. [REDACTED] and I worked extensively to enlist the support of each teacher. We have suggested, for your consideration, an adjustment and/or change in the program for 1982-83.
3. I sincerely believe that the establishment and development of the Curriculum Council during the last three years has been one of my strong points. The Curriculum Council has done an outstanding job during this school year to design and assist the principal in implementing innovative and creative curriculum changes for the years to come.
4. The Teacher Advisory Committee consisting of [REDACTED], [REDACTED], have met and set the foundation for future development in resolving in-house and building level problems. I would consider this to be a partial success. However, I knew the process would be painful, to say the least, but I believe we have made inroads.
5. This objective was not met. Perhaps my goals were too high, as attendance accounting continues to be a problem. We have not been able to change community attitude and we continue to receive notes that we in the office know are forgeries and absolute lies. It is difficult to deal with the community attitude toward attendance. However, I will continue to work at reducing the absenteeism rate from its present 10%.
6. I believe that with the cooperation and professional rapport that I enjoy with [REDACTED] that this has been one of my most successful appointments since coming to Biggs Junior/Senior High. We have a model, exemplary program. The Student Court is a model that any school of any size could emulate. I believe that [REDACTED] deserves the major amount of credit. However, it is our total philosophical agreement and ability to work together that has produced these outstanding results.

7. Community relations involves the traditional greeting and parents meetings in the total support and environment of the school. More specifically, the S.S.C., the Curriculum Council and the Junior High Study Committee and the Community Committee for the W.A.S.C. review have provided a forum for discussion and community involvement.  
  
I believe that we have an involved and knowledgeable group of parents who, as partners with the District management, teacher and students, desire to improve the school.
8. Teacher evaluation has been successful this year in improving instructional practice. It has been difficult to evaluate one teacher - Ms. Staus - as you had predicted. However, I believe that I have done my best; to use your comment from the February 22nd memo, "you are getting better at being the bad guy and maintaining your self-respect". I have worked diligently at improving my communication skills relative to teacher evaluation and the frequent occasions when I do have to be "the bad guy". Your suggestions in these areas have been appreciated.
9. The opportunity for inservice was available to all certificated and classified staff. There are some who did not take advantage of said opportunity.
10. Vandalism continues to be a problem, due in large part to a vast minority group on our campus. This year has seen a successful operation of the student Secret Witness program. [REDACTED] has been of great assistance in implementing programs to reduce vandalism.

SUMMARY COMMENTS:

I believe that there are many areas of needed improvement that remain at Biggs Junior/Senior High. These are as follows:

- 1. Staff relationships
- 2. The task of District reorganization as it relates specifically to our campus.
3. Teachers who refuse to keep students in class and do not actively involve students in learning.
4. Resolving coaching assignments.
5. Continuing development of the office staff as a team.
6. I must personally continue to work at my communication skills.

Your support and encouragement in the areas relative to my evaluation have been appreciated.

[REDACTED]

# **EXHIBIT 3**

From: [REDACTED]  
Sent: Thursday, July 29, 2004 3:20 PM  
To: Biggs Everyone Dist. List  
Subject: Financial Problems and Local Freeze on Hiring

As we are closing our books for the 2003-04 school year, we are discovering the District's financial condition may be even worse than we have estimated. This situation has occurred because of three factors; 1) There were revenue sources (mainly on the federal level) that we anticipated that did not fund certain programs that we, nevertheless, found necessary to continue (e.g., Advanced Placement and English Language Acquisition); 2) There were expenses for the previous year (02-03) that were booked against last year (03-04), thereby increasing our expenses more than we estimated; 3) For two years running we have continued to receive no state reimbursement on mandated costs (an amount that equates to \$50,000 to \$100,000 per year). We are not yet certain of the extent of the problem. Once we know more we will get the information out to the schools as well as the community and give recommendations to the Board for a plan for action, both short-term and long-term.

As a matter of precaution, however, effective immediately, we will be working with the employee associations to put a hold on filling any vacant positions. Although such a course may seem dire, we simply cannot spend money that we do not have on hand.

*"Preparing each student for the future by teaching respect for the world and all humanity."*

Dr. S. Lee Funk, Superintendent  
Biggs Unified School District  
300 B. Street  
Biggs, CA 95917

Phone: (530) 868-1281, extension 250  
Fax: (530) 868-1615  
email [lfunk@biggs.org](mailto:lfunk@biggs.org)

Lee Funk

---

**From:** Lee Funk  
**Sent:** Monday, October 04, 2004 2:24 PM  
**To:** 'niknzac@earthlink.com'; 'mariav@lundber.com'; 'laurenm17@hotmail.com'; 'maria@lundberg.com'; 'gonso8@cwnet.com'; 'jroles@water.ca.gov'; 'jenniferinbiggs@aol.com'; 'hedi@theterraceschico.com'; 'CRoles@dsw.ncen.org'; 'JEBEHOMA@aol.com'; 'adavis@oroville.com'; 'Smi5504@aol.com'; 'gijane212121@yahoo.com'; 'loftin@cncnet.com'; 'mrbillk@mail.iglide.net'; 'BBroxton@wusd.k12.ca.us'; 'query@infostations.net'; 'chonan@yubacity.net'; 'rcgarcia3@juno.com'; 'reeson@cncnet.com'; 'chin@c-zone.net'; Don McNelis; 'dcrowhurst58@hotmail.com'; 'ethelbyers@hotmail.com'; 'grgutierrez@Stapleton-Spence.com'; 'larryb@cncnet.com'; 'meyer@cncnet.com'; 'parksrec@ci.live-oak.ca.us'; 'jbaker@ycusd.k12.ca.us'; 'bakerjimsheri@aol.com'; 'KWilkerson@FRHG.ORG'; 'goin\_craze@yahoo.com'; 'Luvacow@aol.com'; 'jfishop@cncnet.com'; 'kengayle1@msn.com'; 'tktmanes@cs.com'; 'ohmandy@earthlink.net'; 'ugomarg@hotmail.com'; 'ugomarg@hotmail.com'; 'melmac516@yahoo.com'; 'bjcarr@infostations.com'; 'jfarming@juno.com'; 'zacnikmik@aol.com'; 'nhemand@cuhsd.org'; 'cpsheppard@jps.net'; 'mmeeker@groupwise.chicousd.org'; 'rocky@richins.org'; 'royne@jps.net'; 'storm@cattlemen.net'; 'woojums@jps.net'; 'RebTom@aol.com'; 'speegle@manznet.com'; Biggs Everyone Dist. List; Robin Swanson; Don McNelis; Steven Rudy; Susan Stutznegger; Lisa Anderson  
**Subject:** Financial Situation of Biggs Unified School District

For the past two years, Biggs Unified School District (BUSD) has been deficit spending. In simpler terms, the District has spent more money than it has received. We knew we were overspending. However we thought we could do so for a year or two because the state financing would increase (with a turn around of the economy) and our decline in enrollment would stabilize. Unfortunately, those two optimistic assumptions were erroneous. State Aide has not kept pace with the cost of living and our pupil numbers have dropped by more than 60 since this same time in 2002 (60 students would equate to around 57 in Average Daily Attendance, which, in turn, would amount to about \$285,000).

The 2003-2004 was a difficult year financially for BUSD. Expenditures exceeded revenues by approximately \$612,000. Going into last year, it appeared as if the District had surplus funds available that could be spent over several years. Unfortunately, unexpectedly, the 2003-2004 year nearly wiped out all of these reserves. This situation developed because: 1) The Revenue Limit (accounting for almost two-thirds of our funding) was lower than estimated; 2) Worker's Compensation insurance costs went up by \$45,000; 3) Staff Retroactive Salary increases (for 2002-03) were charged against last year's finances; 4) Due to an unusual calendar, two Summer School programs (rather than one), were allocated to the 2003-04 fiscal year; 5) Medical Benefits paid to retirees increased to a greater level than expected; 6) Stipends and Substitute expenses were more than budgeted; 7) Mandated Costs for Special Education increased; 8) Fair market value for investments decreased. Heading into this (the 2004-2005) year, the District has general fund reserves of approximately \$15,000. This amount is far below the economic reserve (required by law) of approximately \$240,000.

The original budget for 2004-2005, which was drafted before our financial situation was completely known, also has another short-fall of approximately \$147,000. It was expected that the District would have sufficient reserves from 2003-2004 to pay for that deficit. Due to the fact the reserves are below the economic reserve requirement and, since, the District only has reserves of approximately \$15,000, the County Office of Education is working with the District to revise the original budget. This new budget will not (indeed, cannot) have deficit spending. Moreover, this budget will be designed to start us on the way to re-establishing our reserves. We are planning for the District to meet the economic reserve requirement by the end of the year after next (i.e., 2006-2007 fiscal year).

To balance the budget for 2004-2005, the District must take additional steps beyond those incorporated in this

year's budget and, even at that, beyond the suggestions elicited from the staff and community last year. The District is in the process of selling the house that it owns on what is commonly called the "Tareh property." This sale will take several months because a "lot-line" adjustment is necessary before any other action can occur. In addition, the Administration is once again only allowing purchases that are only necessary for safety, for compliance with federal or state law, or for absolutely essential categorical expenditures.

The changes that were implemented by the Board in March of 2004 have helped slow down the deficit spending of the District. However, due to declining enrollment, unlimited health care costs for teachers, and increases in workers compensation as well as other statutory benefits, the District will need to decrease spending by approximately \$250,000 for 2005-2006 and subsequent years. Remember, the sale of the District house is a one-time benefit for the 2004-2005 year. Additional ideas will need to be discussed to trim the additional \$250,000 in expenditures necessary for the District to meet its financial obligations.

*"Preparing each student for the future by teaching respect for the world and all humanity."*

Dr. S. Lee Funk, Superintendent  
Biggs Unified School District  
300 B. Street  
Biggs, CA 95917

Phone: (530) 868-1281, extension 250  
Fax: (530) 868-1615  
email [lfunk@biggs.org](mailto:lfunk@biggs.org)

Trevor Stewart, CPA  
Business Manager  
Biggs Unified School District  
(530) 868-1281 ext 252  
email: [tstewart@biggs.org](mailto:tstewart@biggs.org)

## Lee Funk

---

**From:** Lee Funk  
**Sent:** Wednesday, October 13, 2004 6:28 PM  
**To:** 'niknzac@earthlink.com'; 'mariav@lundber.com'; 'laurenm17@hotmail.com'; 'maria@lundberg.com'; 'gonso8@cwnet.com'; 'jroles@water.ca.gov'; 'jenniferinbiggs@aol.com'; 'hedi@theterraceschico.com'; 'CRoles@dsw.ncen.org'; 'JEBEHOMA@aol.com'; 'adavis@oroville.com'; 'gijane2121@yahoo.com'; 'Smi5504@aol.com'; 'loftin@cncnet.com'; 'mrbillk@mail.iglide.net'; 'BBroxton@wusd.k12.ca.us'; 'query@infostations.net'; 'chonan@yubacity.net'; 'rcgarcia3@juno.com'; 'reeson@cncnet.com'; 'chin@c-zone.net'; Don McNelis; 'dcrowhurst58@hotmail.com'; 'ethelbyers@hotmail.com'; 'grgutierrez@Stapleton-Spence.com'; 'larryb@cncnet.com'; 'meyer@cncnet.com'; 'parksrec@liveoakcity.org'; 'jbaker@ycusd.k12.ca.us'; 'bakerjimsheri@aol.com'; 'KWilkinson@FRHG.ORG'; 'goin\_crazee@yahoo.com'; 'Luvacow@aol.com'; 'jfishop@cncnet.com'; 'kengayle1@msn.com'; 'tikmanes@cs.com'; 'ohmandy@earthlink.net'; 'ugomarg@hotmail.com'; 'ugomarg@hotmail.com'; 'melmac516@yahoo.com'; 'bjcarr@infostations.com'; 'jfarming@juno.com'; 'zacnikmik@aol.com'; 'nhemand@ouhsd.org'; 'cpsheppard@jps.net'; 'mmeeker@groupwise.chicousd.org'; 'rocky@richins.org'; 'royne@jps.net'; 'storm@cattlemen.net'; 'woojums@jps.net'; 'RebTom@aol.com'; 'speegie@manznet.com'; Biggs Everyone Dist. List  
**Subject:** Budget Reductions

Last week, Mr. Stewart, our Business Manager, and I sent out a message (which was later duplicated in the Gridley Herald) that outlined the extent of the fiscal problems currently facing our District. Unfortunately, as I specified in that correspondence, the District is once more facing another round of Budget reductions. The cuts that will be considered will be the third in a series of cost containment measures that we have taken in as many years. In total, we will have reduced close to one million dollars in a budget of a little over six million - in other words, almost sixteen percent. Remember, personnel costs account for almost eighty-five percent of the District expenses. If you are doing the math as you read these words, it should be easy to see that we have entered a phase where cuts are going to impact jobs and, therefore, programs for kids, unless we can be extremely resourceful and creative. As we have so many times before, the Administration is requesting that all community members and employees who have suggestions for reducing costs or enhancing revenue forward these ideas to the District office. You may use e-mail, regular mail, or phone, whichever you find most convenient. Thank you, as always, for your assistance in these difficult financial times.

*"Preparing each student for the future by teaching respect for the world and all humanity."*

Dr. S. Lee Funk, Superintendent  
Biggs Unified School District  
300 B. Street  
Biggs, CA 95917

Phone: (530) 868-1281, extension 250  
Fax: (530) 868-1615  
email lfunk@biggs.org

# **EXHIBIT 4**

BIGGS UNIFIED SCHOOL DISTRICT  
300 B Street  
Biggs, CA 95917  
(530) 868-1281

NEWS RELEASE

January 7, 2005

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION  
CONTACT DR. LEE FUNK,  
SUPERINTENDENT AT 868-  
1281, 250

Biggs Unified School District officials have requested the assistance of a neutral mediator from the California State Mediation and Conciliation Service to resolve negotiations concerning teacher compensation. Negotiations between representatives of the District and its 45 teachers have been underway for the last several months. "The unresolved issue," explained District Superintendent Dr. Lee Funk, "is the amount of the District payment for teacher medical insurance premiums." The District currently pays \$793 each month for group insurance coverage for each teacher. Dr. Funk elaborated, "The current teacher contract requires the District to pay the full cost of this insurance coverage without any limitation." In a three-year period, the cost has risen from \$498, an increase of 60%. "It is imperative the District negotiate a reasonable insurance premium payment in order to maintain the fiscal integrity of the District." Dr. Funk stated. "For the last several years, the District has suffered significant loss of revenue because of continuing declining enrollment and reductions in state, as well as federal aid, which has required serious reductions in expenditures for program and personnel," Dr. Funk added.

It is expected that the mediator will oversee further negotiations in the near future. Board President, Vickie Speegle, commented, "it is our hope that the neutral mediator will facilitate a fair and equitable agreement as soon as possible."

BIGGS UNIFIED SCHOOL DISTRICT  
300 "B" Street  
Biggs, CA 95917  
(530) 868-1281

NEWS RELEASE

January 26, 2005

FOR IMMEDIATE RELEASE -  
FOR FURTHER INFORMATION  
CONTACT DR. LEE FUNK,  
SUPERINTENDENT AT  
868-1281, EXT. 250

Biggs Unified School District officials are continuing to struggle with the District's ongoing fiscal crisis. In the latest development, the Butte County Office of Education warned the District it "may not be able to meet its financial obligations for the current and two subsequent fiscal years." This conclusion came after review of the District's latest financial report that revealed a projected negative cash balance and inability to meet the State required minimum reserves.

District Superintendent Dr. Lee Funk explained the District's financial crisis is largely due to continued declining student enrollment, the reduction of state aid, and the significant increase in insurance premiums the last two years. "District revenue is mostly based upon the number of students," Funk stated. He elaborated: "Over the last two years average daily attendance has declined by 70, which resulted in a total loss of income of approximately \$371,000.

To meet this loss of revenue, Funk stated the District has cut its budget expenditures by a total of \$600,000 during the past two years. District Board of Trustees President, Vickie Speegle, added "To manage this fiscal crisis by controlling expenditures has been a difficult and painful process. But we must continue to work together to develop further creative solutions to bring the District back to financial health."

In its analysis of the District budget, the Butte County Office of Education cited "uncapped certificated medical benefits" as a major factor in the current deficit spending. Earlier, it was announced that a neutral State Mediator would soon facilitate the current negotiations between the District and the Biggs Teachers Association over the District's payment for teacher insurance premiums.

Under State school financial solvency law, the Butte County Office of Education is charged with fiscal oversight of all public school Districts in the County. Current legislation provides for increasing outside control if a district is unable to implement plans to meet its financial obligations and maintain a required minimum reserve.

Biggs Unified School District  
300 B Street  
Biggs, CA 95917  
(530) 868-1281

NEWS RELEASE

April 21, 2005

FOR IMMEDIATE RELEASE  
FOR FURTHER INFORMATION CONTACT  
DR. LEE FUNK, SUPERINTENDENT  
AT 868-1281

Serious budget deficits are continuing to face the Biggs Unified School District. The Butte County Office of Education notified the District this week it will be unable to meet its current and future financial obligations. This warning came after the District's latest financial report showed a projected negative cash balance of nearly \$93,000 and a reserve below the State required minimum. District Superintendent Lee Funk explained the District's financial crisis is primarily due to continued declining student enrollment, reduction of State aid and skyrocketing cost of employee group medical insurance. Funk elaborated that "District income is mostly based upon the number of students. Over the past two years, average daily attendance has declined by 70, which resulted in a loss of income of approximately \$371,000."

Under State law, the County Office of Education will strictly oversee District fiscal operations. The following immediate actions were listed.

Continue to reduce deficit spending, projected to total approximately \$87,000 for the current fiscal year. Over the last two years, the District has trimmed expenditures by \$600,000.

Participate in an in depth financial review by the outside State Fiscal Crisis and Management Assistance Team. This study is slated to begin in the very near future.

The County Office of Education stated the uncontrolled cost of insurance premiums paid District teachers is an important element in the District's fiscal crisis. Currently, the District pays \$ 10,776 per year for each teacher's medical, dental and vision insurance coverage. That coverage will be \$11,760 for the 05/06 school year. The present teacher collective bargaining contract requires the District to pay the full cost of medical insurance premiums. Most schools have capped all employee benefits. The District is in mediation with the teachers union over this issue.

County Education officials also advised the District that State law provides for the appointment of an outside fiscal adviser to manage the District budget if efforts to balance the budget are unsuccessful.

# **EXHIBIT 5**

10/21/2004

## Press Release

In order to improve inter-agency communication and in response to the recent acceleration of gang activity in Biggs and Gridley, a community forum was conducted on October 19, 2004 at City Hall in Biggs. A number of officials from the schools in Biggs along with representatives from the City of Biggs and Butte County participated to identify steps that will be taken to keep our community safe.

Some of the plans include:

1. Biggs Unified School District, the City of Biggs, the City of Gridley, and Gridley Unified School District will explore the possibility of sharing the expense to expand the scope of the School Resource Officer Program.
2. Schools in Biggs will make more use of the Youth Diversion Program for young people who are involved in minor crimes and who are at risk of committing more serious offenses.
3. There will be an increased police presence at football games and other school activities in the Community of Biggs.
4. Regular meetings will take place between representatives of the District and the Gridley-Biggs Police Department.
5. The Police Department will work with the Administration of Biggs Unified School District to bring curriculum into the classrooms that focuses on appropriate adolescent decision-making.
6. There will be more training for staff at all the schools as well as community members on recognition of gang culture, attire, symbols, and involvement.
7. Biggs Unified Administration will meet regularly with the Gridley-Biggs Police Chief to insure greater communication.
8. The District Attorney's Office will work closely with all parties to guarantee that there is a ready and free exchange of vital information between all agencies.

The meeting was convened by Sharleta Callaway, Biggs Mayor and attended by Chuck Satterwhite, Gridley-Biggs Police Officer; Randy Cagle, Biggs City Administrator; Ralph Vandro, Biggs High School Principal; Dr. Lee Funk, Biggs Unified Superintendent; Andria Paul-Busch, Biggs City Council Member; Dawn Merlo, Biggs Unified Counselor; Jack Storne, Gridley-Biggs Police Chief; and Mike Ramsey, Butte County District Attorney.

# **EXHIBIT 6**

Kal ph

# Biggs Unified School District

300 B STREET, BIGGS, CALIFORNIA 95917

(530) 868-1281

FAX (530) 868-1615

January 3, 2005

Tim Colbie, Foreperson  
Butte County Grand Jury  
P.O. Box 110  
Oroville, CA 95965

S. Lee Funk, Ed.D.  
Superintendent

Dear Mr. Colbie:

Subject: Special Fees

The issue of special fees for classes, events, programs, and/or equipment charged by our District was raised by the Grand Jury in 1998. At that time, I sent a letter (dated October 2<sup>nd</sup>) to Judge Howell that said, in part:

From what I can determine our District does not now nor has it ever charged fees to individual students or families for transportation in relation to any extra-curricular, co-curricular, or athletic event.

There have occasionally been times when student groups have engaged in fund-raising for a specific trip or event beyond the scope of those that are normally planned as part the instructional or recreational programs of the District. In such instances, entire organizations or clubs have participated in activities to raise extra funds that were used to sponsor the designated cause. Again, no single pupil or family of any student was expected to pay a fee.

The situation has not changed since that time. If I can be of further assistance, do not hesitate to contact me.

Respectfully,



S. Lee Funk, Ed.D.

Cc: Vickie Speegle, Biggs Unified Board President  
✓ Biggs Unified Principals  
Trevor Stewart, Biggs Unified Business Manager  
Andrea Nelson, Deputy Court Executive Officer

# **EXHIBIT 7**

Community RelationsSection 504 Due Process Procedures

The Board of Trustees recognizes that there are students who may not qualify for or need special education services pursuant to Public Law 94-142, but who are believed to need related aids and services in order to participate effectively in the regular education program due to physical and/or mental impairments. These students will be evaluated using procedures parallel to those used for the evaluation of students who are referred for evaluation pursuant to Public Law 94-142.

Students who qualify for or need special aids and/or services in order to participate in regular education programs will be provided services after a group of persons, including the parents and other persons knowledgeable about the student, have determined that the service(s) are needed. Such decisions will be documented on a service plan.

Students who qualify for Section 504 services will be re-evaluated using procedures parallel to those used for review and re-evaluation for PL 94-142.

Although the Biggs Unified School District is in compliance with Section 615 of the Education of the Handicapped Act (PL 94-142), and California Education Code, Sections 56500-56507,1 it has been determined that it is necessary to have a Section 504 due process procedure which will provide parents the opportunity to appeal District Section 504 decisions and actions regarding their children. Therefore, the following procedure has been developed:

Due Process Procedure Pursuant to Section 504, 34 CFR 104.36

1. Notice of Appeal Rights. The Superintendent will notify parents annually of their right to appeal District decisions regarding their children who have been evaluated pursuant to Section 504, 34 CFR 204.35.
2. Rights Relating to Records. Parents have the right to review relevant records regarding their child. Records may be reviewed at the school site or at the District Office.
3. Conditions under Which Appeals may be Filed. A parent may appeal decisions made by the District relating to any of the following:
  - a. Identification of the student as handicapped.
  - b. Evaluation procedures utilized with the pupil.
  - c. Educational placement/service recommended for the pupil.

Community Relations

Due Process Procedures (continued)

4. Timelines For Filing an Appeal. An appeal must be filed within the semester in which the action being appealed occurred.
5. Written Request by Parent Making Appeal. The parent making the appeal must submit a written request for the appeal to be reviewed and a hearing to be held to review the District's action(s). This written request shall be directed to the District's director of instruction who will serve as the District 504 Coordinator.
6. Designation of Individual to Review Appeal and Conduct Hearing. Upon receipt of a written appeal and request for hearing, the director in instruction will select an individual who is impartial, qualified to review District decisions relating to handicapped persons and who is not an employee of the District or the SELPA to which the District belongs. This individual will be selected cooperatively by the parent and the director of instruction from a list of such individuals maintained by the District. The individual so selected will review the District's action and will conduct the hearing at which the parent and his or her representative or legal counsel, if any, shall have the right to participate, to introduce evidence, to question any witnesses or documents presented by the District, and to make a statement of the parent's position. The individual conducting the hearing shall uphold, reverse, or modify the (District) determination and may conclude that a student is a qualified handicapped student or may change the special educational program and/or related services provided to the qualified handicapped student. The decision of the individual shall be binding on the parties, subject to review by the appropriate court of law.
7. Timelines for reviewing Appeal/Conducting Hearing. Within 45 days after receipt of the written appeal and hearing request, the appeal will be reviewed, the hearing will be held and completed, and a final decision will be rendered unless a continuance has been agreed to by the parent and the District.

References:

Education of the Handicapped Act (PL 94-142)  
 Education Code, Sections 56500-56507  
 Section 504, 34 CFR 104.36

Adopted: 1/16/91

Biggs Unified School District

COMPLAINTS CONCERNING THE SCHOOL

The Board welcomes constructive criticism of school policies, programs, or personnel when it is motivated by a sincere desire to improve the quality of the educational process and to assist the schools in performing their tasks more effectively.

The Board encourages the resolution of complaints as early as effectively possible. All complaints submitted in accordance with the procedures adopted by the Board shall be assured of receiving appropriate review and consideration. If the problem is not resolved at a lower level, it shall be dealt with by the Board.

When individual Board members are approached with complaints about the schools, they shall be expected to listen to the complaint and demonstrate their concern by clearly identifying established procedures and channels through which the complaint may receive attention.

- (cf. 1312.1 - Complaints Concerning School Personnel)
- (cf. 1312.2 - Complaints Concerning Instructional Materials)
- (cf. 1312.3 - Complaints concerning Special Education Programs)
- (cf. 1312.4 - Complaints Concerning Categorical Aid Programs)

Legal Reference:

EDUCATION CODE

- 35146 Closed sessions
- 35160.5 (a)(3) Requirement of school district policies: parental complaints re. employees
- 44811 Upbraiding, insulting, and abusing teachers
- 44812 Insulting and abusing teachers
- 56500 et seq. Procedural safeguards: special education programs

GOVERNMENT CODE

- 950 et seq. Actions against public employees
- 54957 et seq. Closed sessions

ADMINISTRATIVE CODE, TITLE 5

- 3950-3953 Complaint procedures: categorical aid programs

KETCHENS AND PHILLIPS V. REINER (1987) 194 Cal. App. 3d 470

Adopted: May 4, 1988

COMPLAINTS CONCERNING SCHOOL PERSONNEL

The Board places trust in its employees and desires to support their actions in such manner that employees are freed from unwarranted, spiteful or negative criticism and complaints.

The superintendent shall develop regulations which will permit the public to lodge criticism against staff members, assure a complete hearing, and protect the rights of the staff members and the district.

Verbal complaints against an employee initially made to a Board member or at a Board meeting will be referred to the superintendent for appropriate consideration and action according to administrative regulations.

School employees who are sued as a consequence of performing their assigned duties shall be provided full legal service unless they have violated district policy, regulation or instructions.

This policy shall not apply when a public complaint involves accusations of child abuse. When a school employee is accused of child abuse, it shall be dealt with according to BP 5141.4

(cf. 5141.4 - Child Abuse and Neglect (Reporting Procedures))

The Board shall annually review policies and regulations regarding complaints against school personnel.

Legal Reference: EDUCATION CODE  
35146 Closed Sessions  
35160.5 Requirement of school district policies: parental complaints re employees  
35203 Duty of district attorney to defend in certain cases  
35204 Contract with attorney in private practice  
44932-44949 Resignation, dismissal and leaves of absence (rights of employee; procedures to follow)

Adopted: March 4, 1987  
Revised: May 4, 1988

## COMPLAINT CONCERNING SCHOOL PERSONNEL

1. PURPOSE: To define the procedures by which a citizen may register a complaint concerning school personnel; may obtain a hearing before the Board in executive session; define the rights and privileges of the parties to the hearing, and specify the procedures under which such hearing shall be conducted.
2. DEFINITIONS:
  - a. ACCUSATION: A written statement, signed and verified under penalty of perjury by a complainant on forms provided by the district, which challenges the personal capacity of an employee to render competent and adequate services to the district.
  - b. EXECUTIVE SESSION: A meeting of the Board, the superintendent, and such other staff members as the Board may require. Members of the public and the press who are not indispensable to determine the issues, finding of facts, and reaching a conclusion on the matter shall be barred from attendance.
  - c. DAY: A day shall be any day on which the district is open for business.
  - d. RESPONSE: A written statement signed by the accused employee which answers the accusation in detail. It may contain counter-allegations. It must be verified under penalty of perjury.
3. COMPLAINT PROCEDURES:
  - a. Every effort should be made to resolve a complaint at the earliest possible stage. Therefore, complaints concerning school personnel should be made directly by the complainant to the person against whom the complaint is lodged.
  - b. Any serious charge or complaint received by the superintendent or any administrator from a citizen, parent or Board member concerning a district employee shall be reported within five (5) days to the employee and the employee's supervisor.
  - c. Should the employee or the complainant believe the allegations in the complaint sufficiently serious to warrant further consideration, the immediate supervisor shall schedule an informal discussion meeting including the supervisors, the employee, and the complainant within ten (10) days of a request to that effect. The employee shall be entitled to representation of his own

choice at that meeting. Every effort will be made to resolve the charge or complaint at that level.

No complaint or complainant shall have the right to disrupt the normal function of the district. The immediate supervisor shall set the meeting at a time convenient to the operation of the district: in a case involving a teacher, following class dismissal; in a case involving a classified employee, at a time within the employee's normal working day.

If the matter is not resolved at that meeting to the satisfaction of the complainant, he shall be directed to the superintendent who shall investigate the complaint by the most appropriate means. If following investigation of the matter by the superintendent, it appears administrative resolution is not possible and the complainant wishes to pursue the complaint to the Board, for purposes of assuring due process, the procedures concerning an accusation shall be followed.

The district will consider the complaint dropped if the complainant fails to put it in writing.

#### 4. Accusation Procedures:

Any administrator who receives a complaint and during discussion with the complainant determines that an accusation has been made shall follow these procedures:

- a. The complainant shall be furnished a copy of the procedures to be followed, together with the Form, "Accusation Against An Employee" as attached hereto.
- b. Within ten (10) days, the complainant shall complete the form by setting forth all charges and facts in support of the complaint in clear and concise language. The accusation shall be signed under penalty of perjury by the complainant and shall be delivered to the superintendent.
- c. Upon receipt of the accusation, the superintendent shall immediately notify the accused employee of the written accusation by delivering a copy thereof.
- d. The employee shall acknowledge receipt by initialing and dating the accusation. If the truth of the allegations contained in the accusation is challenged, a written response to the accusation will be filed with the superintendent. A copy of the response will be mailed to the complainant within five (5) days.

- e. The superintendent may convene a meeting between the employee, the supervisor, and the complainant to attempt to resolve the issue.

If the issue is not resolved, within Fifteen (15) days after receipt of the response, a meeting of the Board shall be convened in executive session unless the accused employee requests a public meeting.

## 5. HEARING

No hearing, either open or closed, will be held by the Board on any complaint unless the Board has received the superintendent's written report concerning the complaint. The superintendent's report shall contain, but not be limited to:

- a. The name of each employee involved.
- b. A brief but specific summary of the complaint and the facts surrounding it, sufficient to inform the Board and the employee(s) as to the precise nature of the complaint and to allow the employee(s) to prepare a defense.
- c. A copy of the signed original of the complaint itself.
- d. A summary of the action taken with the superintendent's specific finding that disposition of the case at the superintendent's level has not been possible, and the reasons why.

(EXCEPTION: A written complaint may be sent directly to the Board if the complaint meets the informational requirements of subparagraphs 1 and 2 above and it includes specific allegations of prior submission of the complaint in similar form to the superintendent and the superintendent's failure to effectively dispose of the matter. If the forwarded complaint complies with the above, it shall, subject to the Board's agenda requirements, be heard at the Board's next regularly scheduled session, or any other session scheduled for the hearing of such matters).

- 1) The hearing shall be informal and rules of evidence shall not apply. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The president of the Board shall rule on the admission of any facts or statements, and this ruling shall be final. Following completion of presentations by both the

complainant and the accused employee, the matter shall be considered submitted to the Board for its decision.

- 2) The Board shall render a decision as soon as is practicable and shall immediately thereafter notify both parties in writing of its decision, which shall include such recommendations for action as is deemed appropriate by the Board and which shall be final.

Right to Representation: Both the complainant and the accused employee shall be entitled to be represented by legal or professional assistance at all levels of these proceedings.

Time Limits: IF at any time the complainant fails to exercise additional remedies provided herein or to abide by the time limits with respect to each step, the complaint shall be presumed to have been abandoned.

#### 6. Retention of Records

- a. When a decision exonerates the accused employee, it will be the option of the employee whether the reports shall be filed in the personnel folder or shall be immediately destroyed.

Approved: March 4, 1987

BIGGS UNIFIED SCHOOL DISTRICT  
ACCUSATION AGAINST AN EMPLOYEE

TO: Board of Trustees  
Biggs Unified School District  
Post Office Box 397  
Biggs, California 95917

FROM: Name(s) \_\_\_\_\_  
Address(es) \_\_\_\_\_  
Telephone Number(s) \_\_\_\_\_

THE COMPLAINANT IS THE (PARENT) (GUARDIAN) OF \_\_\_\_\_  
\_\_\_\_\_, A PUPIL ENROLLED AT \_\_\_\_\_

NAME OF PERSONS(S) AGAINST WHOM ACCUSATION IS MADE:  
\_\_\_\_\_

SITE AT WHICH EMPLOYED \_\_\_\_\_

THE DATE OF THE EVENT OR CIRCUMSTANCES UPON WHICH THIS COM-  
PLAINT IS BASED IS:  
\_\_\_\_\_

NATURE OF YOUR COMPLAINT. (THIS SHOULD INCLUDE A DESCRIPTION  
IN YOUR WORDS OF YOUR ACCUSATION, INCLUDING ALL NAMES, DATES,  
AND PLACES NECESSARY FOR A COMPLETE UNDERSTANDING OF YOUR COM-  
PLAINT.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(YOU MAY USE ADDITIONAL PAGES TO DESCRIBE YOUR COMPLAINT  
MORE FULLY IF YOU DESIRE)

31

I REQUEST THAT THIS COMPLAINT SHALL BE RESOLVED AS FOLLOWS:

---

---

---

HAS THE COMPLAINT BEEN DISCUSSED WITH THE EMPLOYEE NAMED IN THIS COMPLAINT OR HIS/HER SUPERVISOR? \_\_\_\_\_

NAMES OF PEOPLE TO WHOM YOU HAVE SPOKEN \_\_\_\_\_

DATE(S) \_\_\_\_\_

WHAT WAS THE RESULT OF THE DISCUSSION? \_\_\_\_\_

---

---

I HAVE BEEN GIVEN A COPY OF BOARD POLICY AND ADMINISTRATIVE REGULATIONS NO. 1312.1 . I HAVE READ, AND I UNDERSTAND, THE PROVISIONS OF THE POLICY \_\_\_\_\_

I UNDERSTAND THAT THE BOARD MAY REQUEST FURTHER INFORMATION ABOUT THIS ACCUSATION, AND IF SUCH INFORMATION IS AVAILABLE, I SHALL PRESENT IT UPON REQUEST.

I ALSO UNDERSTAND THAT A COPY OF THIS ACCUSATION WILL BE GIVEN TO THE PERSON AGAINST WHOM THIS ACCUSATION IS BEING MADE, AND HE/SHE WILL BE GIVEN THE OPPORTUNITY TO RESPOND IN WRITING TO THIS ACCUSATION AND THAT I WILL RECEIVE A COPY OF SUCH RESPONSE.

I ALSO UNDERSTAND THAT IF A HEARING IS HELD ON THIS ACCUSATION BY THE BOARD OR A COMMITTEE THEREOF, SUCH HEARING WILL BE HELD IN EXECUTIVE SESSION WITH THE PRESS AND PUBLIC EXCLUDED AND THAT I WILL BE INFORMED OF THE TIME, DATE, AND PLACE SUCH HEARING WILL BE HELD, UNLESS THE EMPLOYEE REQUESTS OTHERWISE.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE  
AND CORRECT.

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_ AT \_\_\_\_\_

\_\_\_\_\_, CALIFORNIA.

SIGNATURE(S): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

ACKNOWLEDGMENT: I HEREBY ACKNOWLEDGE RECEIPT OF A COPY OF THIS  
ACCUSATION AND I UNDERSTAND MY RIGHT TO FILE WRITTEN RESPONSE  
HERE TO, A COPY OF WHICH WILL BE FURNISHED THE COMPLAINANT(S).  
I UNDERSTAND MY RESPONSE SHALL BE SUBMITTED UNDER PENALTY OF  
PERJURY.

SIGNATURE(S): \_\_\_\_\_

## COMPLAINTS CONCERNING INSTRUCTIONAL MATERIALS

The Board takes great care in the adoption of instructional materials and is aware that all adopted materials may not be acceptable to all students, their parents/guardians, or other district residents.

The superintendent is directed to implement procedures which will permit proper consideration of any complaints against the use of any instructional materials, including textbooks, supplementary textbooks, library books, and other instructional materials and equipment.

The Board believes the superintendent is well qualified to consider complaints concerning instructional materials. Complainants are advised to consider and accept the superintendent's decision as final. However, if the complainant finds the decision of the superintendent unsatisfactory, he may request that the matter be placed on the agenda of a regular Board meeting. The superintendent shall present to the Board a complete statement of the circumstances concerning the complaint at that meeting. The Board may confirm the superintendent's decision, direct further review by the administration, or take other action it deems appropriate. The Board's decision shall be final.

The Board will not allow political party affiliation, racial prejudice, a desire to suppress ideas, or an intent to deny students access to ideas with which the Board disagrees, to influence its decision in any such case.

(cf. 1312.4 - Complaints Concerning Consolidated Categorical Aid Programs)

Legal Reference: EDUCATION CODE  
 18111 Exclusion of books by governing board  
 35014 Power of governing board to adopt rules for its own governance  
 60003 Power of governing board to select instructional materials  
 60040-60047 Content requirements for instructional materials  
 60200 et seq. Elementary school material - selection and adoption  
 60260 Legislative intent for ordering instructional materials  
 60262 Involvement of teachers, parents and community in instructional material selection  
 60400 et seq. Secondary school textbooks - selection and adoption

Adopted: March 2, 1988

31

## COMPLAINTS CONCERNING INSTRUCTIONAL MATERIALS

The following procedures have been established to provide a system for receiving, considering and acting upon written complaints regarding instructional materials used by the district.

Complaints will only be accepted from either residents of the district or parents/guardians whose child is enrolled as a student in a district school.

Complaints must be presented in writing to the building principal. Complaints regarding printed material must include the name of the author, title, publisher, and the objection by pages and items. In the case of non-printed materials, written information specifying the precise nature of the objection shall be given. The statement must be signed and identified in such a way that a proper reply will be possible.

When a complaint is received by a principal, the principal will acknowledge the receipt of the complaint, and will answer any questions regarding procedure. The principal will then notify the superintendent, or his designee, and the teacher(s) involved of the receipt of the complaint. The superintendent, or his designee, will determine whether the complaint should be considered an individual request or whether a building or district level review committee should be activated to reevaluate the material.

An individual student may be excused from using challenged materials after the parent/guardian has presented a written complaint. The teacher will then assign the student alternate materials of equal merit.

The building level review committee shall be under the direction of the superintendent or his designee. It shall be composed of the building principal and four or more staff members. These shall be selected by the principal.

The district level review committee shall be under the direction of the superintendent. It shall be composed of the superintendent and five or more staff members. These shall be selected by the superintendent from the administrative and instructional areas directly concerned with the subject of the complaint.

The use of challenged materials by class, school or district shall not be restricted until final disposition has been made by the appropriate review committee, but as above, individual students may be permitted to use alternate materials.

In deliberation of challenged materials, the review committee shall consider the educational philosophy of the school district; the professional opinions of other teachers of the same subject and of other competent authorities; reviews of the materials by reputable bodies; the teacher's own stated objectives in using the materials; and the objections of the complainant.

The review committee shall determine the extent to which the challenged material supports the curriculum, the educational appropriateness of the material, and the appropriateness of the material to the age level of the student.

The findings of the building review committee and/or the district review committee shall be summarized in a written report and be sent to the superintendent, or his designee, who will determine how interested parties shall be notified.

If the superintendent believes that the material challenged and the circumstances around the challenge are likely to produce public controversy, the report of the review committee together with the superintendent's recommendation may be brought to the Board for consideration and final decision.

#### COUNTY OR STATE ADOPTED MATERIAL

If the challenged material has been adopted by the County Board of Education, the superintendent may forward the complaint, without action, to the office of the County Superintendent of Schools for reevaluation and decision.

If the questioned material has been adopted by the State of California, the superintendent may forward the complaint, without action, to the office of the State Department of Education for re-evaluation and decision.

Approved: March 2, 1988

Citizen's Request for Reconsideration  
of Instructional Materials

Date \_\_\_\_\_

TITLE: \_\_\_\_\_

AUTHOR: \_\_\_\_\_

PUBLISHER: \_\_\_\_\_ DATE OF EDITION: \_\_\_\_\_

Request received by: \_\_\_\_\_ Title: \_\_\_\_\_

Citizen's Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Citizen Represents: Himself/Herself \_\_\_\_\_  
Organization or Group \_\_\_\_\_

1. To what do you object? (Please be specific: cite pages, tape sequence, video frame, and words)
2. What do you feel would be the result of reading/viewing this material?
3. For what age group would you recommend this material? \_\_\_\_\_
4. Did you read/view the entire selection?
5. IF not, what percentage did you read/view, or what parts?
6. Is there anything good about this material?
7. What would you like the school to do about this material?  
     \_\_\_\_\_ Do not assign it to my child  
     \_\_\_\_\_ Withdraw it from all students.  
     \_\_\_\_\_ Re-evaluate it.
8. Are you aware of how this work has been assessed by literary critics?
9. What do you believe is the thesis of this work?
10. In its place, what work would you recommend?

\_\_\_\_\_  
Signature of Citizen

Action taken \_\_\_\_\_ Date \_\_\_\_\_

E 1312.2(b)

REQUESTS FOR MATERIALS TO BE ADDED TO THE LIBRARY  
BY INDIVIDUALS OR ORGANIZATIONS

The following card may be used by individuals or organizations wishing to make suggestions for materials to be added to the library collection:

Class No.	Please write in this space.	AUTHOR (Surname first)		
Accession No.		TITLE		
Date Ordered				
Date Received		Edition or Series	Volumes	
Dealer		Place and Publisher	Year	List Price
No. of Copies Ordered		No. of Copies	Illustrator	
Cost		Dept. for which recommended	Reviewed in	
LC or Wilson Card		Individual or organization making request, address and phone number. (Please use back of card.)		

## COMMUNITY RELATIONS

Uniform Complaint Procedures

The Governing Board recognizes that the district has primary responsibility for insuring that it complies with state and federal laws and regulations governing educational programs. The district shall investigate and seek to resolve complaints at the local level. The district shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination based on age, sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability in any program or activity that receives or benefits from state financial assistance. (T5CCR4610(c)) (EC 200) (Penal Code 422.6) or failure to comply with state or federal law in the standard program, adult education, consolidated categorical aid programs, migrant education, vocational education, child care and development programs, child nutrition programs and special education programs.

- (cf. 0410 - Nondiscrimination in District Programs and Activities)
- (cf. 0420.1 - School-Based Coordinated Programs)
- (cf. 0420.2 - School Improvement Program)
- (cf. 0430 - Comprehensive Local Plan for Special Education)
- (cf. 3553 - Free and Reduced Lunch Program)
- (cf. 6171 - Chapter I Programs)
- (cf. 6174 - Education for Students of Limited-English Proficiency)
- (cf. 6175 - Migrant Children Program)
- (cf. 6178 - Vocational Education)

The Board prohibits retaliation in any form for the filing of a complaint, the reporting of instances of discrimination, or for participation in complaint procedures. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

The Board acknowledges and respects student and employee rights to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the facts. This includes keeping the identity of the complainant confidential except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee on a case-by-case basis.

- (cf. 4119.23 - Unauthorized Release of Confidential/Privileged Information)
- (cf. 5125 - Student Records)
- (cf. 9011 - Disclosure of Confidential/Privileged Information)

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee.

- (cf. 9124 - Attorney)

The Board recognizes that a neutral mediator can often suggest an early compromise that is agreeable to all parties in a dispute. Whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate a mediation process before beginning a formal complaint investigation. The Superintendent or designee shall ensure that

Uniform Complaint Procedures (continued)

mediation results are consistent with state and federal laws and regulations.

Compliance Officers

The Board designates the following compliance officers to receive and investigate complaints and ensure district compliance with law:

Superintendent  
Biggs Unified School District  
300 B Street  
Biggs, CA 95917  
(530) 868-1281, 250

Compliance officers shall maintain a record of each complaint as required for compliance with the California Code of Regulations, Title 5, Section 4632.

(cf. 1312.1 - Complaints Concerning School Personnel)  
(cf. 1312.2 - Complaints Concerning Instructional Material)  
(cf. 4031 - Complaints Concerning Discrimination in Employment)  
(cf. 5141.4 - Child Abuse and Neglect (Reporting Procedures))

## Legal Reference:

EDUCATION CODE

200-262.3 Prohibition of discrimination  
35146 Closed sessions  
35160.5 Requirement of school district policies: parental complaints re. employees  
48985 Notices in language other than English  
49060-49079 Student Records  
60650 Personal beliefs

CODE OF REGULATIONS, TITLE 5

3080 Application of section 4600-4671  
4600-4671 Uniform Complaint Procedures

GOVERNMENT CODE

54957-54957.8 Closed Sessions

CIVIL RIGHTS ACT OF 1964

42 U.S.C.A. Section 2000c et seq.

TITLE IX, EDUCATION AMENDMENTS OF 1972

20 U.S.C.A. Section 1231g, 1681 et seq.

SECTION 504, REHABILITATION ACT OF 1973

29 U.S.C.A. Section 721, 761

EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

20 U.S.C.A. Section 3801 et seq.

GENERAL EDUCATION PROVISIONS ACT

20 U.S.C.A. 1221 et seq., especially:

FAMILY EDUCATION AND PRIVACY RIGHTS ACT OF 1974

20 U.S.C.A. Section 1221, 1232g

34 CODE OF FEDERAL REGULATIONS, Section 100.7(e)

Adopted: 4/14/93  
Revised: 5/5/99  
Revised: 9/15/04

BIGGS UNIFIED SCHOOL DISTRICT

## COMMUNITY RELATIONS

### Uniform Complaint Procedures

#### Compliance Officers

The Governing Board designates the following compliance officer to receive and investigate complaints and ensure district compliance with law:

District Superintendent, 300 E Street, Biggs, CA 95917;  
(916)868-1281, ext. 250

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee.

#### Notifications

The Superintendent or designee shall meet the notification requirements of the Code of Regulations, Title 5, Section 4622, including the annual dissemination of district complaint procedures to students, parents/guardians, employees, school/district advisory groups and other interested parties and information about available appeals, civil law remedies, and conditions under which a complaint may be taken directly to the California Department of Education. The Superintendent or designee shall ensure that complainants understand that they may pursue other remedies, including actions before civil courts or other public agencies.

(cf. 5145.6 - Notifications Required by Law)

#### Procedures

The following procedures shall be used to address all complaints which allege that the district has violated federal or state laws or regulations governing educational programs. Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the Code of Regulations, Title 5, Section 4632.

The district will use its uniform complaint procedures when addressing all complaints regarding sex equity.

Investigations of discrimination complaints shall be conducted in a manner that protects confidentiality of the parties and the facts.

(Title 5, Section 4630)

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

#### Step 1: Filing of Complaint

Any individual, public agency or organization may file a written complaint of alleged noncompliance by the district.

## COMMUNITY RELATIONS

## Uniform Complaint Procedures (continued)

The complaint shall be presented to the Superintendent. The Superintendent will maintain a log of complaints received, providing each with a code number and a date stamp.

If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, district

staff shall help him/her to file the complaint. (Title 5, Section 4600)

Complaints alleging unlawful discrimination may be filed by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination. The complaint must be initiated no later than six months from the date when the alleged discrimination occurred or when you first obtained knowledge of the facts, unless the time for filing is extended by the Superintendent, upon written request by you stating the reason for the extension. (Title 5, Section 4630)

The Superintendent will acknowledge receipt of the complaint and notify the complainant.

Step 2: Mediation

Within three days of receiving the complaint, the compliance officer shall informally discuss with the complainant the possibility of using mediation. If all parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a discrimination complaint, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her investigation of the complaint.

The use of mediation shall not extend the district's time lines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.

Step 3: Investigation of Complaint

Each complaint shall be investigated by the appropriate site or district office and shall be resolved within sixty days of the original receipt of the written complaint unless an extension of the timelines has been agreed upon in writing by the Superintendent. The site or district shall:

1. Provide an opportunity for complainants and/or representatives to present relevant information.
2. Review documents that may provide information relevant to the

## COMMUNITY RELATIONS

## Uniform Complaint Procedures (continued)

alleged violation.

Step 4: Final Written Decision

The report of the district's decision shall be written in English and in the language of the complainant whenever feasible or required by law. If it is not feasible to write this report in the complainant's primary language, the district will arrange a meeting at which a community member will interpret it for the complainant.  
(cf. 5145.6 - Notifications Required by Law)

If an employee is disciplined as a result of the complaint, this report shall simply state that effective action was taken and that the employee was informed of district expectations.

The report shall not give any further information as to the nature of the disciplinary action.

Step 5: Response

A written report of the district's decision is prepared and sent to the Complainant within sixty (60) calendar days of receipt of the complaint. The report contains:

1. Findings and disposition of the complaint
2. Corrective actions, if any
3. Rationale for the findings, along with any supporting documentation
4. Notice of the right to appeal the decision to the California Department of Education within 15 days and the procedures to be followed for the appeal.
5. In a discrimination complaint, notice of the right to seek civil law remedies if no sooner than sixty (60) days have elapsed since filing an appeal with CDE, with the exception of injunctive relief, for which the moratorium does not apply.

Appeals to the California Department of Education

If dissatisfied with the district's decision, the complainant may appeal in writing to the California Department of Education within 15 days of receiving the district's decision.

When appealing to the California Department of Education, the complainant must specify the reason(s) for appealing the district's decision and must include a copy of the locally filed complaint and the district's decision. (Title 5, Section 4652)

Civil Law Remedies

A complainant may pursue available civil law remedies outside of the

COMMUNITY RELATIONS

Uniform Complaint Procedures (continued)

district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders.

The California Department of Education may directly intervene in the complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists. In addition, the California Department of Education may also intervene in those cases where the district has not taken action within 60 calendar days of the date the complaint was filed with the district.

Approved: 4/14/93  
Revised: 5/5/99  
Revised: 9/15/04

BIGGS UNIFIED SCHOOL DISTRICT

Title 5, Section 4650. Basis of Direct State Intervention

1. The State Superintendent of Public Instruction shall directly intervene without waiting for local agency action if one or more of the following conditions exists:

(i) The complaint includes an allegation, and the Department verifies, that a local educational agency failed to comply with the complaint procedures required by this Chapter;

(ii) Discrimination is alleged by the complainant and the facts alleged indicate that the complainant will suffer an immediate loss of some benefit such as employment or education if the Department does not intervene. However, nothing in this section gives the Department jurisdiction over employment discrimination claims.

(iii) The complainant relates to agencies other than local educational agencies funded through the Child Development and Child Nutrition Programs;

(iv) The complainant requests anonymity and presents clear and convincing evidence and the Department verifies that he or she would be in danger of retaliation if a complaint were filed locally, or has been retaliated against because of past or present complaints;

(v) The complainant alleges that the local educational agency failed or refused to implement the final decision resulting from its local investigation or local Mediation Agreement;

(vi) The local agency refuses to respond to the Superintendent's request for information regarding a complaint;

(vii) The complainant alleges and the Department verifies, or the Department has information that no action has been taken by the local educational agency within 60 calendar days of the date the complaint was filed locally.

(viii) For complaints relating to special education the following shall also be conditions for direct state intervention:

(A) The complainant alleges that a public agency, other than a local educational agency, as specified in Government Code Section 7570 et seq., fails or refuses to comply with an applicable law or regulation relating to the provision of free appropriate public education to handicapped individuals;

(B) The complainant alleges that the local educational agency or public agency fails or refuses to comply with the due process procedures established pursuant to federal and state law and regulation; or has failed or refused to implement a due process hearing order;

(C) The complainant alleges facts that indicate that the child or group of children may be in immediate physical danger or that the health, safety or welfare of a child or group of children is threatened.

(D) The complainant alleges that a handicapped pupil is not receiving the special education or related services specified in his or her Individualized Educational Program (IEP).

(E) The complaint involves a violation of federal law governing special education, 20 U.S.C. Section 1400 et seq., or its implementing regulations.

2. The complaint shall identify upon which basis, as described in paragraph (a) of this section, that direct filing to the state is being made.

NOTE: Authority cited: Section 232 and 33031, Education Code; Section 11138, Government Code.

Reference: Sections 11135, 11136 and 11138, Government Code; 34 CFR 76.780-76.783 and 106.8.

4/93  
5/99  
9/04

1201

COMPLAINTS CONCERNING CONSOLIDATED CATEGORICAL AID PROGRAMS

All complaints concerning alleged violation of state or federal law or regulations governing consolidated categorical aid programs shall be handled in accordance with legal requirements, Board policy and administrative regulations.

An investigation of each complaint shall include all relevant evidence presented by the complainant and/or representative. The complainant or representative shall have the opportunity to question any involved parties.

The district written report of each complaint shall contain the district's findings, the decision and the reasons for the decision. The report shall be prepared within thirty (30) days of receiving the complaint. Within five (5) days of the decision, a copy of the report shall be provided to the complainant in the language he best understands, together with notification that he may appeal the district's decision to the State Department of Education.

The superintendent or designee shall send copies of this policy to all interested parties.

Legal Reference:

Education Code

- 33050 Waiver, approval and exceptions (School Based Program Coordination Act)
- 49443 Written consent of parent required for psychiatric treatment of pupils
- 52033 Granting waiver (School Improvement Plans)
- 60650 Personal beliefs

Administrative Code, Title 5

- 3900 Scope of consolidated categorical aid programs
  - 3950 Definitions: complaint procedures
  - 3951 Complaint procedures for local education agency (LEA)
  - 3952 Responsibility of state for resolution of complaints;
  - 3953 Compliance agreement
- General Education Provisions Act (Federal)

Adopted: March 2, 1988

As used herein, the term "research or experimentation program or project" means any program or project designed to explore or develop new or unproven teaching methods or techniques. The designation of any program or project as a research or experimentation program or project shall be made by the superintendent.

Any complaints arising under this policy shall be handled in accordance with existing district policies or regulations.

**Student Submission to Psychiatric or Psychological Examinations: Testing or Treatment**

No student shall be required, as part of any program which is funded by the United State Department of Education, to submit, without prior consent, to psychiatric or psychological examination, testing or treatment, in which the primary purpose is to reveal information concerning:

1. Political affiliations.
2. Mental and psychological problems potentially embarrassing to the student or student's family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating and demeaning behavior.
5. Critical appraisals of other individuals with whom respondents have close family relationships.
6. Legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers.
7. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

Prior consent to any such psychiatric or psychological examination, testing or treatment means the prior written consent of the student's parent/guardian or, if the student is emancipated, of the student.

As used herein, the terms psychiatric or psychological examination, testing or treatment are intended to have their ordinary and customary meaning which refers to a recognized medical or therapeutic discipline practiced by licensed professionals. These terms do not include ordinary classroom activities or teaching techniques.

# **EXHIBIT 8**

COMMUNITY RELATIONS

COMPLAINTS CONCERNING CONSOLIDATED CATEGORICAL AID PROGRAMS

The Board encourages the resolution of all complaints concerning an alleged violation of law, policy or regulation governing any federally or state funded consolidated categorical aid programs. These include such programs as School Improvement Program, Chapter I, EIA/SCE.

The superintendent shall maintain written procedures which provide for the following:

1. An investigation of each complaint will be conducted which includes all relevant evidence presented by the complainant or representative. The investigation shall provide for the complainant or representative to question those persons involved in the complaint.
2. A written report shall be prepared for each complaint which contains the district's findings, the decision and the reasons for the decision. The report shall be prepared within 30 days of receiving the complaint and a copy of the report shall be provided to the complainant in the language best understood by the complainant.

The copy of the report must be provided to the complainant within 5 days of the district's decision.

All persons lodging a complaint under this policy shall be advised of their right to appeal the district's decision to the State Department of Education. This notice shall be included with the copy of the district's report presented to the complainant.

The superintendent shall disseminate copies of these procedures to all interested parties.

Right to Inspect Instructional Materials: Research or Experimentation Projects

In addition to any other rights with respect to the inspection of instructional materials, the parent/guardian of a child enrolled or engaged in any research or experimentation program or project which is funded by the United States Department of Education shall be entitled to inspect all instructional materials which will be used in conjunction with such program or project.

Legal Reference: EDUCATION CODE  
33050 Waiver, approval and exceptions  
(School Based Program Coordination Act)  
52033 Granting waiver (School Improvement  
Plans)

ADMINISTRATIVE CODE, TITLE 5  
3900 Scope of consolidated categorical aid  
programs  
3950 Definitions: complaint procedures  
3951 Complaint procedures for local educa-  
tion agency (LEA)  
3952 Responsibility of state for resolution  
of complaints;  
3953 Compliance agreement

General Education Provisions Act (Federal)

Adopted: December 10, 1986

While all schoolwide critical areas for follow-up need to be addressed, the Commission has reviewed the entire report and identified specific issues and those critical areas for follow-up that must be vigorously addressed as part of your schoolwide action plan. These are given as follows.

- ① The administration and staff collaboratively develop and implement a plan to:
  - Increase students' performance in language arts and mathematics to proficiency and above levels
  - Close gaps in academic performance of Hispanic learners
  - Improve the transition process of Hispanic students into college or career preparation programs
  - Review, modify (if necessary), and integrate the school's vision, mission, and ESLRs
  - Ensure consistency exists with standards-aligned curriculum and assessment of student achievement in both academic standards and the ESLRs
2. The administration and staff create and implement a four-year plan for each student that includes a record of school-to-career activities, to assist in planning an individualized academic program.
3. The administration and staff establish a Staff Development committee that will create an annual staff development plan with scheduled time for staff and leadership team collaboration.
4. The administration and staff establish a process to provide opportunities for staff and students to improve/modify instruction, using student work, authentic assessment strategies, and performance data. This should improve students' ability to critique and modify their own learning and performance.
5. The administration, staff and students address school spirit issues by defining roles of students, staff, and school leadership, developing collaborative processes within and across disciplines or grade levels, as well as throughout the school community.
6. The administration and staff create structures for internal communication to resolve differences, primarily involving staff and leadership and employ strategies of team building, mediation and conflict management, and shared decision-making.
7. The administration and staff promote good community relations and involvement through school leadership and staff use of multiple strategies, such as:
  - Communication in English and Spanish with parent and community regarding students' academic progress and other activities that support and promote student success
  - Expanding outreach and encouraging involvement of parents and community members from a wider representation of all school community groups

# **EXHIBIT 9**

Staff Meeting 9/24/04

Hi everyone! As you know, this year I am ASB president! It is my personal goal, as well as the ASB's goal to change how some things work around here! Our main goal for this year is to create an environment that is both educational and enthusiastic! As much as ASB may try to improve our school spirit, there is only so much that we can do by ourselves! Being a small school has many benefits, yet it can also be very challenging! As ASB president it is my job to be the voice of our school! We feel that there is a serious issue that needs to be addressed!

Education is so important and I think that that is definitely our main priority here. but school and high school is so much more than that! You, the teachers and staff are so important to us! Sometimes I don't know if you realize how much of an impact you have on our lives! We look up to you and we need you! Teaching is so much more than filling our minds with book knowledge! You are teaching us life skills and how to be a better person! You are teaching us not to settle for anything less than perfect!

We look up to you! Having the responsibility of being a teacher is a huge task! Yet I am asking you today if you will help ASB achieve its goal! We need your support outside of the classroom! I really would like to encourage you to get involved this school year! We love it when you participate! Whether it is cheering at a rally, attending a non-mandatory sporting event, or helping out with a club or activity....we love it! We feed off you guys!

If you are wondering how you can get involved outside the classroom, coming up there is a perfect opportunity! Homecoming week is just around the corner! It is October 11-15! Whether it be participating in the rally games, sitting with students, cheering, or simply dressing up on the spirit days, we would love for you to get involved! Class advisors, I would really like to encourage you to support your class and help them in any way needed!

I am really looking forward to having a great year, but it can only be successful with your help! The leaders of this school and many teachers and staff members have already agreed to help me carry out this change! Obviously you can tell I am very passionate about this subject or else I would not be standing here, in front of you, scared to death! However, sometimes you have to face fear to get a point across and I hope I have made that clear today. We need you! We need all of you to be willing to change Biggs High School's atmosphere. The time is now!

If you have any feedback for me I would love to hear it! If you have any thoughts, comments or things I can bring back to the ASB class, that would also be great! We want you to be active. This doesn't necessarily mean putting in more hours, but rather make the hours that you participate count! Thank you for your time today! This subject has really been on my heart lately and I am glad that I got to share it with you!

Thank You!

  
Associated Student Body President

# BUTTE COUNTY

## OFFICE OF EDUCATION

**DON McNELIS**  
SUPERINTENDENT  
dmcnelis@bcoe.org

**Mia Osborne-Ng**  
Sr. Executive Assistant  
mng@bcoe.org

### Board of Education

*Bessie R. Hironimus*  
*Dr. Ladd Johnson*  
*Jeannine MacKay*  
*Brenda J. McLaughlin*  
*Dr. Robert Purvis*  
*Pat Matthews Spear*  
*Betty Vassar*

1859 Bird Street  
Oroville, CA 95965  
(530) 532-5761  
FAX: (530) 532-5762  
<http://www.bcoe.org>

*An Equal Opportunity  
Employer*

September 19, 2005

The Honorable Barbara Roberts  
Presiding Judge of the Superior Court  
County of Butte  
One Court Street  
Oroville, CA 95965-3303

Re: 2004-2005 Butte County Grand Jury Final Report

The grand jury issued findings and recommendations relative to Biggs Unified School District. It is the responsibility of the Biggs Unified School District Board of Trustees to respond to such findings and recommendations. However, since reference is made to Butte County Office of Education, my office is providing our response as well.

With the exception of Recommendation #1, we believe that a general statement to the findings and recommendations to be appropriate. In general, these issues are the independent responsibility of the Biggs Unified School District. As an intermediate educational entity, the Butte County Office of Education has limited statutory authority to engage in oversight investigation of school districts within Butte County. We have determined that all findings pertain to issues that fall outside our realm of perusal.

#### Recommendation #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.

#### Response:

AB1200, as supplemented by AB2756, specifies criteria and standards the County Office of Education must use to review the fiscal condition of school districts within its jurisdiction. Reviews are conducted three times each fiscal year for all school districts. The original budget is reviewed and either approved or disapproved. In addition, two interim fiscal reports are submitted and certified by each respective district as either positive, qualified, or negative. Subsequent review of more details and/or intervention follows depending upon the results of the assessment of the district's fiscal condition. Generally, approved budgets and positive interim reports indicate the school district is fiscally sound and no additional oversight is necessary.

Biggs Unified School District had always had approved budgets and positive interim reports until fiscal year 2004-2005. In December 2004 the district submitted a qualified interim report. Informal meetings were conducted with the district's chief business official and county office fiscal staff in January 2005 and February 2005.

**"WHERE CHILDREN COME FIRST"**

In March 2005 the district submitted another qualified interim report. After review by the county office, the report was downgraded to negative. At that time formal monthly meetings were established with the Superintendent, chief business official and county office fiscal oversight staff. In addition, the district was notified that the County Office of Education would exercise its "stay and rescind" authority relative to any board actions with a fiscal impact.

In August 2005 the district's original budget for 2005-2006 was disapproved. The budget was returned to the district with requirements and recommendations for the district board to use for the purpose of revision and resubmission. The district has until October to do so.

Also in August 2005 the county office and district jointly developed criteria to use to determine if and when it would be necessary to appoint a fiscal advisor. The criteria included benchmarks and timelines. If the district fails to meet any criteria within the specified timeline, a fiscal advisor will be appointed to oversee the day-to-day fiscal operations.

The district has been directed to develop a fiscal recovery plan. This plan will be reviewed, when presented, by the county office or fiscal advisor as appropriate. Progress on the plan will be monitored to ensure the district returns to a sound fiscal position.

Sincerely,



Don McNelis  
County Superintendent of Schools

cc: Steven Rudy, Assistant Superintendent of Administrative Services  
Butte County Office of Education  
Dr. Lee Funk, Superintendent  
Biggs Unified School District