

**THE
FRESNO COUNTY**



**RAND
JURY**

2008-2009 FINAL REPORT

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FRESNO COUNTY**



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JURY**

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PRESIDING JUDGES OF THE FRESNO COUNTY SUPERIOR COURT

HON. HILARY A. CHITTICK
Presiding Judge for 2008

HON. M. BRUCE SMITH
Presiding Judge for 2009

“Enlighten the people, generally, and
tyranny and oppressions of body and mind
will vanish like spirits at the dawn of day.”

Thomas Jefferson

Robert Cooper

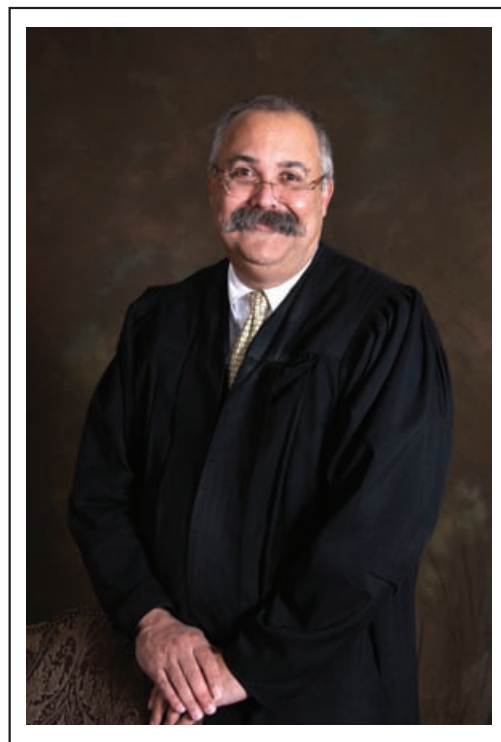
February 21, 1915 - November 2, 2009

We lovingly dedicate this 2008-2009 Final Report to the memory of Robert Cooper, Grand Juror from 2007-2009. His wit, wisdom, insights, nine decades of perspective and calm patience with his infirmity was a priceless gift to all of us who worked with him.

HON. HILARY A. CHITTICK
PRESIDING JUDGE 2008



HON. M. BRUCE SMITH
PRESIDING JUDGE 2009





Superior Court of California County of Fresno

CHAMBERS OF
HILARY A. CHITTICK
Presiding Judge 2008
M. BRUCE SMITH
Presiding Judge 2009

1100 VAN NESS AVENUE
FRESNO, CALIFORNIA 93724-0002
(559) 457-2033
FAX (559) 457-2035

At the beginning of the term of the 2008-2009 Grand Jury, the members were advised that being a member of a grand jury is a position of honor and great responsibility. It calls for diligence, impartiality, courage, and the exercise of calm and considered judgment. At the outset of their service, they were also advised that the Grand Jury will make an important contribution to local government, and that the judges of the Fresno County Superior Court appreciate and value their service.

This Grand Jury has continued the fine tradition of their predecessors, and their enthusiastic and dedicated work is sincerely appreciated. The leadership and dedication of the foreperson, Marilyn Watts, must be noted, acknowledged and praised. Several new and innovative procedures were adopted this year, which will enhance the operations of future grand juries in this county. The foreperson, along with all members, performed this service with minimal monetary compensation, for travel and a small per diem allowance.

All citizens residing in Fresno County are invited and welcome to apply for the responsible position of serving as a grand juror and to continue this important function of public service.



Hon. Hilary A. Chittick
Presiding Judge 2008



Hon. M. Bruce Smith
Presiding Judge 2009



County of Fresno

GRAND JURY

June 30, 2009

To the residents of Fresno County:

Every year, nineteen civic minded individuals make an enormous commitment of time and energy to become “local government watchdogs” as Fresno County Grand Jurors. For 2008-2009, Presiding Judges Hilary A. Chittick and M. Bruce Smith charged the grand jury to conduct investigations in the smaller rural jurisdictions in the county. Their foresight proved timely as citizen complaints steered us to review problems in two smaller school districts and in two city councils, Coalinga and Sanger. The grand jury also is charged with an annual review of Pleasant Valley State Prison. Finally, the 2008-2009 Fresno County Grand Jury felt the economic stringencies facing the county warranted a review of the Fresno County Board of Supervisors’ budget processes and priorities. We are very proud and pleased to present to the citizens of Fresno County these seven reports of our investigative work this year. Each report is followed by the responses of the government officials addressed in the reports.

We are also proud of the fact that 2008-2009 grand jurors were the most diverse and representative grand jury Fresno County has ever seated. There was a balance of men and women, a better representation of minorities and residents outside of the City of Fresno and a greater variety of work and educational backgrounds. The greater diversity and representativeness was a result of the hard work of the Fresno County Past Grand Jurors Association, the Superior Court Administrator, Sherry Spears and Judge Robert H. Oliver who were in charge of screening applicants. There were about 90 applications submitted, which the Superior Court Judges screened and then forwarded 30 names to be entered into a random drawing to select the nineteen members of the 2008-2009 Fresno County Grand Jury.

The 2008-2009 grand jury was privileged to receive an extensive education on city and county government from about 25 officials and from tours of government operations. The Fresno County Grand Jury met as a body a minimum of 6 days a month. We reviewed more than 100 citizen and prisoner complaints. We conducted twelve investigations; seven of which resulted in reports and recommendations. The investigative committees interviewed from 5 to 30 witnesses for each of the twelve investigations spending hundreds of hours. I would like to thank and congratulate these nineteen men and women for the exceptional workload and quality of each of the reports. At our first session, I charged the jurors with the words of Helen Keller, “I long to accomplish a great and noble task, but it is my chief duty to accomplish small tasks as if they were great and noble.” They prepared for each witness and approached each small task as if it was great and noble.

The grand jury could not have operated as effectively without the assistance of the Judges Hilary A. Chittick and M. Bruce Smith; Juror Services Manager, Sherry Spears; John Savrnach, Deputy District Attorney and Art Wille, Deputy County Council. We also received invaluable assistance from the County of Fresno Information Technology Department. They worked with Grand Juror, Fred Ray, to automate and computerize the report editing and approval process saving money and juror time that was used for other work. Grand Juror, Maria Stobbe was also invaluable in the new computer process of editing. She provided all the data entry, conversions and formatting while sorting through changes from multiple drafts often with two or more jurors talking at once.


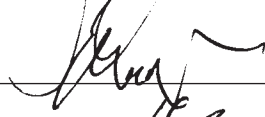
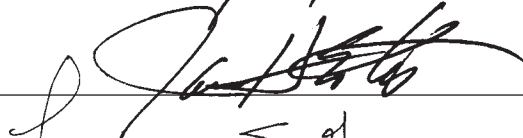

Serving this year with my fellow grand jurors has been immensely rewarding for me. It has been a year of learning and growing, shared challenges, and wonderful friendships. I would like to especially thank this year's officers and standing committee heads for their leadership and countless additional hours they committed to the grand jury so that everyone else could do their job more efficiently and effectively. I would like to specifically thank Melanie Bloom, head of the editing committee; Duane Barker, Secretary; Bob Cooper, Recording Secretary and Budget Chair; Gladys Hollie, Prison Committee Chair; and Fred Ray, Citizen Complaint Chair. Finally, Muriel Zahler, Sergeant at Arms is especially to be commended and thanked for setting up all the speakers and tours, handling witness and committee meeting schedules and room assignments as well as organizing the monthly agendas.

The reports and recommendations of the grand jury are often the first step in shedding light on problems within government agencies. However, an educated and informed public citizenry is also critical to insure public agencies are accountable for their conduct and decisions. The 2008-2009 Fresno County Grand Jury feels privileged to have been able to serve the citizens of Fresno County in this manner.

Sincerely,

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

Marilyn Watts, Foreman
2008-2009 Fresno County Grand Jury

| | |
|----------------------|--|
| Duane Barker | Duane Barker |
| Melanie M. Bloom | Melanie M. Bloom |
| Daniel C. Boyajian |  |
| James V. Brooks | James V. Brooks |
| RE Cooper |  |
| Vonda J. Epperson | Vonda J. Epperson |
| Jim Estep |  |
| Leonard E. Goldberg | Leonard E. Goldberg |
| Nancy Gray | Nancy Gray |
| Gladys Miriam Hollie | Gladys Miriam Hollie |
| Louis Lopez | Louis Lopez |
| Frank R. Puglia |  |
| Fred Ray | F. Ray |
| Bob Solis | Bob Solis |
| Maria Stobbe | Maria Stobbe |
| Dorothy Wall | Dorothy Wall |
| Ikuko Watnick | Ikuko Watnick |
| Marilyn Watts | Marilyn Watts |
| Muriel Zahler | Muriel Zahler |

THE COUNTY of FRESNO 2008-2009 GRAND JURY



FRONT ROW (*Left to Right*)

Ikuko Watnick, Dorothy Wall, Vonda Epperson, Nancy Gray, Melanie Bloom, Marilyn Watts, Maria Stobbe, Gladys Hollie and Muriel Zahler

BACK ROW (*Left to Right*)

Leonard Goldberg, Jim Estep, Jim Brooks, Daniel Boyajian, Louis Lopez, Frank Puglia, Duane Barker, Fred Ray, Bob Cooper and Bob Solis



MISSION STATEMENT



The Fresno County Grand Jury serves as the ombudsman for citizens of Fresno County. The primary function of the Grand Jury, and the most important reason for its existence, is the examination of all aspects of county government and special districts assuring honest, efficient government in the best interests of the people.

Their responsibilities include receiving and investigating complaints regarding county government and issuing reports. A Grand Jury Final Report is issued in June of each year. Grand Jurors generally serve for one year although the law provides for holdovers for a second year to assure a smooth transition.

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THE GRAND JURY PROCESS

- Membership
- Application Information
- Functions
- Complaint Procedure

MEMBERSHIP

Prior to the 2008-2009 Fresno County Grand Jury selection, the Fresno County Superior Court with the assistance of the Fresno County Chapter of the California Grand Juror's Association made a specific effort to recruit a well balanced mix of citizens for service on the grand jury.

The efforts were successful as the 2008-2009 Fresno County Grand Jury is the most diverse grand jury ever in Fresno County. This year's grand jury consists of twelve new members and seven returning members from the 2007-2008 Fresno County Grand Jury. The new members are more ethnically diverse with two African-Americans, three Hispanics, one Asian and six Caucasians. Of the seven returning members, six were Caucasian and one was African-American. Three of the twelve new members were foreign born (Italy, Portugal, and Japan). Many other members were born and/or resided at least part of their lives out in California. Six grand jurors live outside the Fresno city limits, and the rest reside in the City of Fresno.

The 2008-2009 grand jurors are gender balanced with ten men and nine women. The age range spans six decades with forty somethings through ninety somethings. There is also a wide variety of work and education histories. The members had various levels of education and had worked in government, law enforcement, education, health, military and private industry. Most members are retired, but several still hold jobs and/or are owner/operators of small businesses. Many serve on other commissions or volunteer their time with other community based organizations.

The grand jurors brought a wealth of interests, expertise, experience, and skills to the year's worth of work. For example, two members with technological experience have standardized and innovated the report writing and editing process saving many hundreds of man-hours usually taken up with these tasks.

The diversity of the membership brought other tangible benefits to the citizens of Fresno County. This year's grand jury maintained the high standards for the quality and integrity of the investigations and reports of prior grand juries, while investigating a broader range of topics. Prior grand juries primarily focused on the City of Fresno or individual departments within the County of Fresno. The 2008-2009 Fresno County Grand Jury primarily investigated complaints in rural communities within Fresno County. These communities traditionally have less attention paid to their issues and problems.

Each member volunteered a significant part of his or her time over the past year in order to make the government more accountable to the citizens of Fresno County. We have appreciated the opportunity to serve.

APPLICATION INFORMATION

The Fresno County Grand Jury serves as the civil watchdog for the County of Fresno. Their responsibilities include investigating complaints regarding county and city governmental agencies and issuing reports when necessary.

In the early months of each calendar year, the Fresno County Superior Court begins the process for selecting a new grand jury. Those with an interest in serving on the grand jury may contact the Juror Services Manager and ask to be considered as a prospective grand juror. In addition to self referrals, names of prospective grand jurors are suggested by the active and retired judicial officers of the Fresno County Superior Court and the current grand jury members.

The basic qualifications include being a citizen of the United States, being at least 18 years of age and a resident of Fresno County for at least one year prior to selection. Applicants should also be in possession of their natural faculties and have ordinary intelligence, sound judgment and good character. They should be able to speak and write English and have some computer literacy.

Questionnaires are mailed to all prospective grand jurors after the nominations are received. All prospective grand jurors are required to have a background check. All prospective grand jurors must be officially nominated by a sitting Superior Court Judge and may be asked to come in for an interview. The Judges then consider all prospective grand juror nominees. They nominate 30 prospective jurors, who are invited to an impanelment ceremony in mid-June. Names are drawn at random to serve on the nineteen member grand jury. Generally, there are two to four members from the outgoing grand jury who holdover to insure a smooth transition.

Prospective grand jurors should be aware of the responsibilities and time commitment involved. Jurors typically spend a minimum of 40 hours per month on meetings, interviewing, conducting investigations and writing reports. The service period is from July 1 to June 30 of the following year.

For additional information or to nominate yourself or someone else, contact the Juror Services Manager at the Fresno County Courthouse, 1100 Van Ness Avenue, Room 102, Fresno, CA 93724-0002 or call 559-457-1605.

FUNCTIONS

History: In 1635, the Massachusetts Bay Colony impaneled the first grand jury to consider cases of murder, robbery and wife beating. By the end of the colonial period the grand jury had become an indispensable adjunct to the government. The U.S. Constitution's Fifth Amendment and the California Constitution call for the establishment of grand juries. The California Constitution provided for prosecution by either indictment or preliminary hearing.

In 1880, statutes were passed which added duties of the grand jury to investigate county government beyond misconduct of public officials. Only California and Nevada mandate that civil grand juries be impaneled annually to function specifically as a "watchdog" over county government. California mandates formation of grand juries in every county able to examine all aspects of local government adding another level of protection for citizens.

Functions: The civil grand jury is a part of the judicial branch of government, an arm of the court. As an arm of the Superior Court, the Fresno County Grand Jury is impaneled every year to conduct civil investigations of county and city government and to hear evidence to decide whether to return an indictment. The civil grand jury in its' role as civil "watchdog" for the County of Fresno has two distinct functions:

- ❖ Investigations of allegations of misconduct against public officials and determine whether to present formal accusations requesting their removal from office under three feasancess: Nonfeasance, misfeasance and malfeasance.
- ❖ Civil Investigations and Reporting, the watchdog function, is the PRIMARY duty of a regular Civil Grand Jury. In addition to mandated state functions, the jury may select additional areas to study publishing its' findings and recommendations in a report at the end of the year.

Both the criminal and civil grand juries have the powers to subpoena. The criminal grand jury conducts hearings to determine whether there is sufficient evidence to bring indictment charging a person with a public offense. However, the district attorney usually calls for empanelment of a separate jury drawn from the petit (regular trial) jury pool to bring criminal charges. However, in Fresno County a Superior Court Judge is the determiner of facts relative to holding an individual to answer to criminal charges.

Civil Watchdog Functions: Considerable time and energy is put into this primary function of the civil grand jury acting as the public's "watchdog" by investigating and reporting upon the operation, management, and fiscal affairs of local government (eg, Penal Code § 919, 925 et seq.). The civil grand jury may examine all aspects of county and city government and agencies/districts to ensure that the best interests of the citizens of Fresno County are being served. The civil grand jury may review and evaluate procedures, methods and systems used by county and city

government to determine whether more efficient and economical programs may be used. The civil grand jury is also mandated to inspect any state prisons located within the county including the conditions of jails and detention facilities.

Citizen Complaints: The civil grand jury receives many letters from citizens and prisoners alleging mistreatment by officials, suspicions of misconduct or government inefficiencies. Complaints are acknowledged and investigated for their validity. These complaints are kept confidential.

Criminal Investigations: A criminal jury is separate from a civil grand jury and is called for empanelment by the district attorney. A hearing is held to determine whether the evidence presented by the district attorney is sufficient to warrant an individual having to stand trial. Note: This is not the procedure in Fresno County, a Superior Court Judge calls for a criminal jury if a matter continues on in the courts to trial.

The grand jury system as part of our judicial system is an excellent example of our democracy in which individuals can volunteer for civic duty on behalf of their community. The grand jury is an independent body. Judges of the Superior Court, the district attorney, the county counsel, and the state attorney general may act as advisors but cannot attend jury deliberations nor control the actions of the civil grand jury (Penal Code § 934, 939).

*2006 – 2007 Grand Jury Final Report

COMPLAINT PROCEDURE

It is the right of Fresno County residents to bring attention of the Civil Grand Jury matters involving public agencies which may concern them.

Although the Civil Grand Jury has limited statutory ability to provide solutions, all Fresno County residents are encouraged to communicate their grievances to the Grand Jury for its consideration. All complaints received by the Grand Jury are confidential, but they must be signed by the complainant or they will not be acted upon.

A complaint form can be obtained in the following ways:

1. Telephone the Superior Court at (559) 457-1605 and request a citizen complaint form.
2. Grand Jury website (www.fresnosuperiorcourt.org).
 - a. Click on jury.
 - b. Click on Grand Jury
 - c. Click on complaint form.
 - d. Double click on complaint form and print.

Sample Complaint Form page follows--



FRESNO COUNTY GRAND JURY

1100 VAN NESS AVENUE, ROOM 102
FRESNO, CALIFORNIA 93721

COMPLAINT FORM

ALL COMPLAINTS RECEIVED BY THE GRAND JURY ARE CONFIDENTIAL

Date: _____

Your Name: _____

Home Address: _____

City, State & Zip: _____

Telephone Number: Home () Work ()

BRIEF SUMMARY OF COMPLAINT - Include dates of events, names of officials, other persons, city/county departments and agencies involved. (Attach additional sheets if necessary).

The information contained on this form is true, correct and complete to the best of my knowledge.

Signature _____ Date: _____

COMPLAINTS WILL NOT BE PROCESSED WITHOUT A SIGNATURE.

You will receive written acknowledgment of this complaint after it is received and reviewed by the Grand Jury. This complaint is to be mailed to the address shown above.

FRESNO COUNTY GRAND JURY

2008-2009

Final Reports and Responses

- City of Coalinga
- Fresno County Executive Budget Committee
- Fresno County Budget Cuts and Board Assistants
- Pleasant Valley State Prison
- City of Sanger
- Parlier Unified School District
- Golden Plains Unified School District Board of Trustees

REPORT #1

CITY OF COALINGA

FILED

JAN 23 2009

FRESNO COUNTY SUPERIOR COURT
By _____ DEPUTY

2008-2009

FRESNO COUNTY GRAND JURY



FINAL REPORT

#1

**Fresno County
2008 – 2009 Grand Jury
Report # 1**

City of Coalinga

“The only thing necessary for the triumph of evil is for good men to do nothing.” Edmund Burke

INTRODUCTION

In response to citizens' complaint, the Fresno County Grand Jury has investigated the management and operations of the City of Coalinga. The principle allegations of the complaint were violations of the Brown Act, fiduciary negligence, conflicts of interest, and improper interference with city staff. The investigation looked at the relationship between the city council, city manager, chief of police, other subordinate city personnel, and the public. Also included were issues related to the overall management of city affairs and the lack of legally required procedures that assure proper conduct of business.

During the course of the investigation, the Fresno County Grand Jury interviewed over twenty witnesses and reviewed video recordings of city council meetings, electronic mail (e-mail), personnel records, and various other printed material. The investigation revealed that these issues have been an on-going problem for many years. Therefore, present problems cannot be completely blamed on current officials; however, present officials have continued these practices.

BACKGROUND

CITY COUNCIL AND MANAGER

The City Council of Coalinga is composed of five elected members, one of whom acts as mayor. Since Coalinga operates under the city manager form of government, the city council is tasked with developing policy and approving the budget. As a body, they direct the city manager who is charged with day-to-day operations, hiring and supervising department heads, and preparing the budget. The city council considers and votes on formally proposed matters and issues opinions and findings.

GENERAL PLAN AND SPHERE OF INFLUENCE

Updates of the General Plan and Sphere of Influence are required under California law every ten years and are paid for by the municipality. Extensions of the Sphere of Influence must be acted upon within five years to remain in effect. Any changes requested by a developer and the required Environmental Impact Report (EIR) are at

the expense of the developer unless the community offsets the fees as an incentive for development.

ISSUES OF CONCERN

Testimony and documentation indicated that some of the city council members were unaware of their municipal code, personnel rules, and the limits of their authority. Testimony from some members of the Coalinga City Council faulted the city managers and police chiefs for many of the problems which have developed over the years. The council members declared that these public officials did not perform at council's direction. Because of this belief and a misunderstanding of the scope of their authority, individual members have circumvented the chain of command, compromising the authority of managers.

INTIMIDATING PRACTICES OF THE CITY COUNCIL

The Fresno County Grand Jury reviewed witness statements, e-mails, and recordings of council meetings which revealed that individuals on the council were openly hostile in their dealings with the public, one another, city managers, and city employees. A recording of the Coalinga City Council meeting of August 2, 2007, included several examples of disrespectful and unprofessional behavior. Further actions taken by individual council members resulted in employee intimidation. For example, e-mails were sent to supervisors claiming inappropriate use of employee work time and threatening to terminate city employees. Also, some council members publicly reprimanded staff, and made false accusations of wrong-doing. These false accusations could lead to litigation against the individual council member and the city.

In 2007, the council requested that the city manager terminate the chief of police. The city manager refused, declaring the action was unjustified and not legally supportable. The council then placed Measure D on the ballot in an attempt to place the chief of police directly under council supervision. Measure D failed by an overwhelming majority, leaving the chief of police under the supervision of the city manager. Subsequently, the city manager was placed on administrative leave for sixty days but was returned to duty thirty days later. After intense on-going criticism from some city council members, the chief of police resigned under a compensated agreement. Later, the city manager was fired without cause and filed a wrongful termination suit.

This conflict resulted in substantial costs to the community. The Measure D special election cost approximately \$25,000. The financial settlement with the city manager cost \$225,000. The compensated arrangement with the chief of police cost six months severance pay. The recruiting costs related to the hiring of a new city manager and a new chief of police are undetermined, and attorney fees were associated with most of these actions.

COMPROMISED CREDIBILITY

When the Fresno County Grand Jury investigated complaints about conflicts of interest, they found instances that created the appearance but which did not constitute a legal conflict. The first case involved an informal meeting between a council member, the city planner, and staff representing developers. The purpose of the meeting was to discuss a change to the General Plan and Sphere of Influence to include a specific property. Tax records revealed that the property being considered for development was partially owned by the employer of the council member who attended this meeting. This action substantially increased the value of the property, even though infrastructure necessary for development was missing and could not be provided by the city within the five-year time limit. The city council later approved the change, necessitating a new EIR at an additional cost of \$100,000 to the city. The council member employed by the owner of the property voted in favor of the change. Testimony given to the grand jury indicated that the city manager was not instructed by the city council to collect this additional expense from the developer.

The second case involved the 2007 Horn Toad Derby which is an annual event in the city park on Memorial Day weekend. The chief of police has been responsible for security at that event. In the past, security was provided by Coalinga Police and their reserve officers, the sheriff's department reserve officers, sheriff's gang and vice units, other local area agency police officers, and security personnel from the Claremont Custody Center. This assistance was provided at no extra cost to the Coalinga Police Department. Prior to the event in 2007, there were no significant problems. A city council member, who is also employed by the Fresno County Sheriff's Department, insisted that the chief hire deputies from the Fresno County Sheriff's Department at a cost of \$50 per hour for each of those deputies. Testimony received by the grand jury revealed that the chief of police told the council member that extra sheriff personnel were not needed. The council member ordered the chief of police to "do it." Extra security cost the city an additional \$4,000 to \$5,000. During the grand jury investigation, Testimony revealed that the council member, employed by the sheriff's department, recused himself from voting on the resolution.

These actions by members of the city council have created the appearance of a conflict of interest. Although they do not constitute a legal conflict of interest, they have compromised the credibility of the council within the community.

VIOLATION OF THE BROWN ACT

The purpose and intent of the Brown Act is to ensure that officials conduct business in public in order to lend transparency to governmental affairs. The complaint raised concerns that certain Coalinga City Council practices did not comply with the open meeting requirements of the Brown Act. The grand jury found no legal violations of the Brown Act but a clear, intentional violation of the intent of the Brown Act.

At a regularly scheduled meeting with the Coalinga Police Officers Association at the Cambridge Inn in Coalinga on March 6, 2007, three city council members rotated in and

out of the meeting at various times. This action was a deliberate attempt to avoid the quorum requirements of the Brown Act. During the meeting, the council members attempted to gain support for the removal of the chief of police. The council members offered members of the police department additional job benefits in exchange for their support. Later that same day, the association held a vote of confidence supporting the chief of police.

DEPARTMENTAL INTERFERENCE

The high turnover in management personnel is evidence of the city council's interference in departmental business. The city has employed seventeen city managers and nine chiefs of police during the last eighteen years.

Citizen and employee testimony, e-mails, interdepartmental memos, correspondence, as well as recorded videos, provided evidence of the city council's ineffective management style. This was particularly evident with the city manager and the chief of police. Although the city hired professional staff, the council failed to follow their advice or leadership. Instead, council members inserted themselves into the management of city departments, thereby diminishing the authority of the city manager and the chief of police. The Coalinga Municipal Code sets forth the appropriate role of the council members to the city manager and staff as follows:

The Council and its members shall deal with the Administrative Services of the City only through the City Manager, except for the purposes of inquiry, and neither the Council nor any of its members shall give orders directly to any subordinate of the City Manager. The City Manager shall take his orders and instructions from the council only upon official action taken in a duly held meeting of the council, and no individual Councilman shall give any orders or instructions to the City Manager, except as the Council shall have officially instructed such Councilman to do so.
(Coalinga Municipal Code Section: 2-4.109. Relationship with the Council)

The grand jury received extensive testimony that individual council members have routinely issued orders to city managers and other city employees. Council members readily admitted that they handed out business cards and encouraged city employees to contact them directly with complaints about their job. The discord among rank and file employees was evident. Employees have developed the habit of taking matters to individual council members and avoiding normal channels of supervision, making adequate supervision difficult.

FIDUCIARY NEGLIGENCE

The city budgeted \$60,000 annually for legal counsel but spent approximately \$300,000 in 2008. City council members have stated that they may have overused legal counsel. This overuse could have been avoided by consulting with the city manager and/or chief of police.

The repeated changes in upper management have resulted in costs associated with recruiting, hiring, and training new staff. Additionally, the city has incurred the expense of severance pay for the chief of police and settlement costs associated with the termination and subsequent lawsuit by the city manager.

The expense of \$100,000 for a new EIR was also an unnecessary expense to the city. Extensions of the Sphere of Influence must be acted upon within five years to remain in effect. According to testimony, the city's infrastructure was not adequate to support the amount of proposed new development within the five-year requirement.

Despite the advice of the chief of police, council members insisted on police pursuing at least three investigations at the cost of thousands of dollars each during the year 2007. The investigations found no basis in fact. In addition, the council incurred a \$4,000 to \$5,000 expense for the Horn Toad Derby.

CONCLUSIONS

The Fresno County Grand Jury found merit in the complaint brought by individuals from Coalinga. Although the City of Coalinga has had on-going problems, the Fresno County Grand Jury is hopeful that conditions will improve. In sworn testimony, some council members acknowledged past practices have created problems.

Since the start of this investigation, one new city council member has been elected, thereby possibly changing the dynamics of the council. In addition, the recent employment of a new chief of police and an interim city manager may improve the relationships between the city manager and city council.

FINDINGS

- F101 Participation by the community at Coalinga City Council meetings has been met with hostility and unprofessional conduct on the part of council members.
- F102 Some city council members have attempted to have city employees fired or reprimanded.

- F103 Some Coalinga City Council members admitted they were unfamiliar with city municipal codes, personnel rules and procedures, and other legal requirements.
- F104 The city council violated the intent of the Brown Act.
- F105 Some individual city council members interfered in city departmental matters outside of formal council meetings.
- F106 The Coalinga City Council wasted public funds.
- F107 Apparent conflicts of interest have compromised the credibility of the city council.
- F108 Actions by some city council members exposed themselves and the city to liability.
- F109 The city council does not always require a developer to reimburse the city for an additional Environmental Impact Report.

RECOMMENDATIONS

The 2008-2009 Fresno County Grand Jury recommends that:

- R101 The Coalinga City Council be respectful toward all citizens and each other during city council meetings. (F101)
- R102 The Coalinga City Council receives additional training regarding city municipal code, legal requirements, and personnel directives that pertain to the function of elected officials. (F102, F103)
- R103 The Coalinga City Council fulfills both the intent and all requirements of the Brown Act. (F104)
- R104 The Coalinga City Council issues written directives from the body as a whole and not from individual council members. (F105)
- R105 The Coalinga City Council sets policy and direction to be implemented by the city manager based on a documented vote of the city council. (F105)
- R106 The Coalinga City Council follows the appropriate chain of command for personnel matters. (F102, F105)
- R107 The Coalinga City Council requires individual council members to recuse themselves from any consideration of matters which may be construed as a conflict of interest. (F107)

R108 The Coalinga City Council consistently and appropriately applies all rules and regulations regarding reimbursement of fees. (F109)

REQUEST FOR RESPONDENTS

Pursuant to Penal Code 933.05, the Fresno County Grand Jury requests response to each of the specific findings and recommendations. It is required that responses from elected officials are due within sixty days of the receipt of this report and ninety days for all others.

RESPONDENTS

City Council, Coalinga, California (F101-F109, R101-R108)

SOURCES AND REFERENCES

Copies of e-mails
Tax Assessor records
Six videos of council meetings
Personnel records through subpoena
Newspaper articles
Copies of interoffice memos and letters
Coalinga City Municipal Code
Coalinga City Employees Handbook
Witness interviews and recorded sworn statements
Council member interviews
City employee interviews
Coalinga police officer interviews
Fresno County Sheriff's Department I.T. technicians
Fresno County Sheriff's Department employees
Madera County Sheriff's Department employees
Fresno County District Attorney's Office
Ralph M. Brown Act
Internet research
City of Coalinga official web site

RESPONSES

A. Coalinga City Council
R101 through R108

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155 W. Durian Avenue
Coalinga, CA 93210

Phone (559) 935-1533
FAX (559) 935-5912

March 24, 2009

Presiding Judge M. Bruce Smith
Fresno County Superior Court
1100 Van Ness Avenue
Fresno, California 93724

Re: City of Coalinga, Response to Grand Jury Report; 2008-2009

Dear Judge Smith:

This letter constitutes the statutory response to the 2008-2009 Grand Jury Report pertaining to the City of Coalinga.

The City Council appreciates the interest and work of the Grand Jury as reflected in the 2008-2009 Grand Jury report. The City Council also expresses its hope and belief that the City of Coalinga is currently well led and moving in a very positive direction for the citizens of Coalinga.

The City's responses to the "findings" and to the "recommendations" are found hereafter. However, as a preliminary matter, the City wishes to point out what appeared to be misunderstood facts or incomplete facts contained in some portions of the Grand Jury Report. The extent to which these misunderstandings and/or incomplete facts may have resulted in Grand Jury findings or recommendations that were "off the mark", is unknown.

Nonetheless, it is important to the City Council and the City as a whole that the following matters be stated, accurately, for the record:

1. The Grand Jury Report suggests that the Coalinga City Council elected to place Measure "D" on the ballot and then suggests that the cost of such an election wasted public funds. In fact, the City Council had no desire to place Measure "D" on the ballot. The City Council was required by law to place Measure "D" on the ballot when local citizens, exercising their rights under the initiative process, placed before the City Council the requisite petition that required that Measure "D" be placed on the ballot. That petition is a matter of public record. The Council had no choice. Measure "D" appeared on the ballot because the law required it.
2. The Grand Jury Report says that the Measure "D" election cost was "approximately \$25,000". In fact, according to the City Finance Director, the exact direct cost for the Measure "D" election was not \$25,000, rather, \$1,895. This was the invoice received

from the Elections Department and this was the invoice which the City paid. Both the County invoice and the City payment are matters of public record. The City also incurred an indirect cost of \$1,600 in legal fees relating to the election over the six month period that preceded the election. Thus, the City's total cost was something over \$3,000, but certainly not "approximately \$25,000".

3. The Grand Jury Report contains the following statement: "Any changes requested by a developer and the required Environmental Impact Report (EIR) are at the expense of the developer unless the community offsets the fees as an incentive for development." This statement is contained in the Report as if it were a summary of general state law. It is not. It is, moreover, an oversimplification of how general plans, spheres of influence, and the related EIRs, are paid for. State law contains no direction, guidance, or mandate about how EIRs are paid for, especially in the context of the EIR associated with a City general plan and sphere of influence change.
4. The Grand Jury Report concluded that Coalinga City Councilmembers committed no violations of California conflict of interest laws, however, curiously, concluded that "the credibility of the Council" within the community was compromised because of activities of Councilmembers. Because state law carefully governs actions that constitute conflicts of interest and since the Grand Jury concluded that there were no violations of state law, the City is unsure how to respond to a Grand Jury opinion that legal activities of Councilmembers "compromised the credibility the Council" within the community.
5. In the category entitled "fiduciary negligence", the Grand Jury concluded that certain expenditures (for an Environmental Impact Report, investigations undertaken by the Police Department, some legal expense, and the expenses for additional security for the Horntoad Derby) were unnecessary. There are a few reasons given to support the Grand Jury's opinion that these charges were unnecessary. The City wishes simply to point out to the Court that local policy, as determined by the elected City Council and local circumstances, are the deciding factors in determining whether an expense is justified or not. While the City appreciates the Grand Jury's "Monday morning quarterbacking" about the necessity, or not, of these expenses, suffice it to say that at the time these expenditures were approved, the Councilmembers unanimously voted to spend the funds, believing that each of the expenses was a proper and necessary expense of public funds and that, in each case, the public had been or would be protected or benefitted by virtue of the expense.
6. The Grand Jury Report states that a prior "City Manager was fired without cause and filed a wrongful termination suit." However, in fact what occurred was that the City Manager's contract was terminated and no lawsuit was ever filed with any court. While the City is prohibited by law from discussing publicly the details of any personnel matter, including this one, suffice it to say that the majority of the City Council was persuaded that ample cause existed for the termination of the City Manager's contract.
7. Finally, while the City has no reason to doubt the independence and sincerity of the Grand Jury, it should be noted that some members of the City Council believe their

testimony to the Grand Jury was not fully or properly considered in the Final Grand Jury Report and that their presence before the Grand Jury was met with a hostility that was visible, surprising, and not appreciated.

CITY'S RESPONSE TO GRAND JURY FINDINGS

Finding F101: Participation by the community at Coalinga City Council meetings has been met with hostility and unprofessional conduct on the part of the Councilmembers.

City Response: Partially Agree.

The Coalinga City Council meets two times per month. Over the course of the past 2 years, the City is aware of only one instance on issues of major concern both to the community and to the City Council, where members of the public addressed the Council in an energetic and emotional way and some members of the Council responded in a similarly "energetic" and emotional way. However, with the exception of this occasion, the City disagrees with the Grand Jury Finding F101 and, on the contrary, it is usually the case that the interchange between members of the public and the Coalinga City Council at Council meetings, even when there are disagreements, is friendly, productive, and cordial.

Finding F102: Some City Councilmembers have attempted to have City employees fired or reprimanded.

City Response: Agree.

Over the course of the past two years, the City Council has discussed in closed session or in one-on-one discussions with the City Manager the need to discipline or terminate certain City employees who were performing poorly. Such discussions are perfectly normal and are routine when unacceptable performance comes to the attention of members of the Council.

Finding F103: Some Coalinga City Councilmembers admitted they were unfamiliar with City municipal codes, personnel rules and procedures, and other legal requirements.

City Response: Agree.

It is not unusual for newly elected Councilmembers to be unfamiliar with all City codes, rules, procedures, and other legal requirements, and it is not unlikely that one or more newly elected members of the City Council may have expressed less than complete knowledge of these matters.

Finding F104: The City Council violated the intent of the Brown Act.

City Response: Disagree.

Finding F104 apparently refers to the event in 2006 which three members of the Council separately spoke to members of the Coalinga Peace Officers Association on the invitation of the CPOA. While reasonable minds can differ about the "intent" of the 3 Councilmembers, the Councilmembers themselves who spoke on that occasion do not agree with the assertion that their efforts were intended in any way to violate the "intent" of the Brown Act. The Council acknowledges that this may have created a public perception problem.

Finding F105: Some individual City Councilmembers interfered in City departmental matters outside of formal Council meetings.

City Response: Disagree.

While it is commonplace in Coalinga for Councilmembers to speak to City department heads such as the Police Chief, Fire Chief, Human Resource Director, Finance Director, and others for purposes of inquiry or to pass on public complaints or concerns, the City disagrees that such contacts can be properly referred to as interference.

Finding F106: The Coalinga City Council wasted public funds.

City Response: Disagree.

The expenditures referred to in the Grand Jury Report which the Grand Jury characterizes as a "waste" of public funds were approved by a majority of the City Councilmembers who, at the time of their vote, considered the expenditures appropriate and necessary for the City's welfare and protection. Both the investigations involving matters within the Police Department, and the use of the Sheriff's Department at the Horned Toad Derby, were matters that were deemed by the City Council at the time to be matters of needed public security and protection (including real gang problems) and the expenditures, therefore, entirely justified. With regard to the payment of City funds for the expansion of the Environmental Impact Report, the City Council majority approved the expenditure, believing that it was in the best interest of the City to secure an expanded scope within the Environmental Impact Report and that the future growth of the City necessitated such an expanded report, and, therefore, that the expense was justified and proper.

Finding F107: Apparent conflicts of interest have compromised the credibility of the City Council.

City Response: Disagree.

The Grand Jury Report found, and the City agrees, that there is no evidence of violations of the California conflict of interest laws. The City has no evidence of "compromised" credibility of the City Council and the City has received no evidence or testimony from citizens about compromised credibility. The concept of "compromised credibility" is

something intangible and subjective and the City simply disagrees with the Grand Jury's perspective. However, the City Council agrees that Councilmembers should do all within their power to avoid, in fact and appearance, any impropriety in matters involving a potential conflict of interest.

Finding F108: Actions by some City Councilmembers exposed themselves and the City to liability.

City Response: Disagree.

The City does not believe that actions of some City Councilmembers exposed themselves and the City to liability. The City has received no evidence of such exposure and there is nothing contained in the Grand Jury Report that leads the City to the conclusion that, apparently, the Grand Jury reached. However, as noted below in connection with the "Recommendations", the City has put in place several new programs, procedures, and personalities that will eliminate such risks in the future.

Finding F109: The City Council does not always require a developer to reimburse the City for an additional Environmental Impact Report.

City Response: Agree.

CITY'S RESPONSE TO GRAND JURY RECOMMENDATIONS

Recommendation R101: The Coalinga City Council be respectful toward all citizens and each other during City Council meetings.

City Response: This is obviously a worthy goal and has been implemented.

Recently, the Councilmembers approved and each Councilmember signed a new City Council protocol that requires mutual respect during discussions at Council meetings.

Recommendation R102: The Coalinga City Council receives additional training regarding City Municipal Code, legal requirements, and personnel directives that pertain to the function of elected officials.

City Response: This has been implemented.

City Councilmembers recently received ethics training as required by state law. In addition, the newly appointed City Manager is training Councilmembers on matters involving the Municipal Code, legal requirements, and personnel matters. In addition, newly elected Councilmembers are enrolled in California League of Cities training seminars for newly elected officials.

Recommendation R103: The Coalinga City Council fulfills both the intent and all requirements of the Brown Act.

City Response: The City agrees with this objective, and believes that compliance with the Brown Act and its requirements have been and will continue to be of high importance to City Council and City staff. It has been the desire of the City to comply both with the spirit and the "letter of the law" for the Brown Act and, therefore, the City does not believe any change is necessary in its current practices.

Recommendation R104: The Coalinga City Council issues written directives from the body as a whole and not from individual Councilmembers.

City Response: This is not implemented because further analysis is yet needed. The City Council has recently appointed a new City Manager, Bill Skinner, and a professional and productive working relationship has developed between the City Council and the new City Manager on the one hand and, on the other hand, between the new City Manager and the City staff. The City intends to monitor carefully the management capability, style, and effectiveness of the new City Manager, as well as the compliance with Councilmembers to the protocols (including the City Manager form of government) contained in the Municipal Code to insure that those protocols are followed. The City is committed to managing the City under the City Manager form of government in which Council direction is given from the body as a whole.

Recommendation R105: The Coalinga City Council sets policy and direction to be implemented by the City Manager based on a documented vote of the City Council.

City Response: This has been implemented.

The newly appointed City Manager insures that at Council meetings that he obtains Council direction on all matters of policy and that the Council policy directives are contained in the minutes of Council meetings.

Recommendation R106: The Coalinga City Council follows the appropriate chain of command for personnel matters.

City Response: This has been implemented.

The new City Manager has discussed with the newly elected members of the City Council and with the City Council as a whole, the need to work through the City Manager as to all personnel matters.

Recommendation R107: The Coalinga City Council requires individual Councilmembers to recuse themselves from any consideration of matters which may be construed as a conflict of interest.

City Response: This has been implemented.

Hon. M. Bruce Smith
Fresno County Superior Court
March 24, 2009
Page 7

All members of the City Council recently received a course in ethics training, including training in the requirements of the conflict of interest laws, and this training included the newly elected Councilmember. Abstention in cases of a conflict of interest is already mandated by state law, and enforced by the California Fair Political Practices Commission, and thus no local policy is needed.

Recommendation R108: The Coalinga City Council consistently and appropriately applies all rules and regulations regarding reimbursement of fees.

City Response: No implementation is necessary because the City Council already follows applicable state law with regard to the collection and reimbursement of fees and costs, to the extent state law is explicit on such matters. In addition, the City Council is in the process of updating the general plan, including general plan policies, and during the general plan update process, the City Council will consider, once again existing fee reimbursement policies and determine whether such policies need to be amended, strengthened, or changed, in light of the Grand Jury recommendation.

Sincerely,

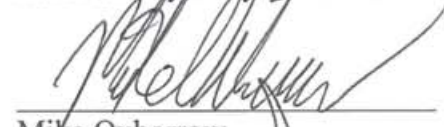
COALINGA CITY COUNCIL



Ron Lander, Mayor



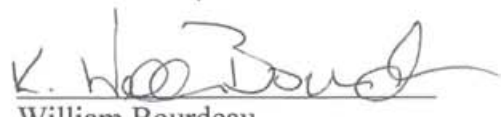
Ron Ramsey, Mayor Pro Tem



Mike Oxborrow



Tony Garcia



William Bourdeau

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REPORT #2

FRESNO COUNTY EXECUTIVE BUDGET COMMITTEE

FILED

FEB 04 2009

FRESNO COUNTY SUPERIOR COURT
By _____ DEPUTY

2008-2009
FRESNO COUNTY GRAND JURY



FINAL REPORT
#2

**Fresno County
2008 – 2009 Grand Jury
Report #2**

Fresno County Executive Budget Committee

INTRODUCTION

The 2008/09 Fiscal Year (FY) Budget process was changed from prior Fresno County budget practices to include the formation of an executive committee. Since this practice was a deviation from the established Fresno County Charter and other Fresno County Management Directives and Policies, it received much attention by the media and controversy from county employees. The Fresno County Grand Jury studied this process as related to its appropriateness, effectiveness, and efficiency.

During the course of the investigation, the Grand Jury interviewed fourteen witnesses, reviewed Fresno County Board of Supervisors' (Board or Board of Supervisors) agenda items, agenda meeting minutes, and the 2008/09 recommended budget and budget instructions. The Grand Jury also reviewed the Fresno County Charter, Fresno County related Management Directives and Policies, and other supporting documents including media articles.

BACKGROUND

The Fresno County 2008/09 Budget totals approximately \$1.7 billion, which funds 23 county departments employing over 7,000 individuals. The Fresno County Board of Supervisors has discretion over about 20% of the total budget, or approximately \$350 million. The remaining 80% of the budget is tied to or earmarked for specific programs funded with state and federal dollars.

The creation of the county's recommended budget is an enormous undertaking where the County Administrative Officer (CAO) and his staff work to balance available funding with program policy direction from the Board of Supervisors. The CAO releases budget instructions early in the budget development process. The budget instructions for the development of the 2008/09 Budget consisted of five steps, one of which stated that departments meet with the Executive Budget Committee (EBC or committee) to determine final funding allocations in order to complete the recommended budget.

DIRECTIVES AND POLICIES

Various county documents state that the CAO shall supervise and direct the preparation of the annual budget of the county for the Board of Supervisors and shall be responsible for its administration after adoption. These documents include: 1) Fresno County Charter Section 19, last amended April 10, 1993; 2) Fresno County Board of Supervisors' Administrative Policy #13, Subject: Budget; and 3) Management Directive dated July 15, 1986, Chapter 600, titled "Budget Instructions" revised March 15, 2006. In conformity with these policies, the CAO has played a central role in the preparation and administration of past budgets. During the past few years, a number of funding constraints came to light requiring county officials to make policy decisions to align the budget with available funding levels. Testimony to the Grand Jury indicated that these circumstances were some of several factors which led to the formation of the EBC.

EXECUTIVE BUDGET COMMITTEE

In addition, prior to the preparation of the 2008/09 FY Budget, several supervisors were uncomfortable with budget information provided by the CAO and county staff, implying that data lacked depth of analysis which precluded them from providing policy direction. In testimony given to the Grand Jury, many witnesses stated that management practices of the CAO to conserve funds in the CAO's office resulted in the hiring of lower level staff analysts rather than experienced senior level analysts.

Some supervisors looked for more specific and detailed information from department budgets, and to achieve this goal the Executive Budget Committee was created. On December 18, 2007, the Board of Supervisors approved a new process for development of the 2008/09 FY Budget by establishing an Executive Budget Committee. The committee was comprised of the Board Chairman, Board Vice-Chairman, County Administrative Officer, Budget Director, Auditor-Controller/Treasurer-Tax Collector, and Department Head Council President. The EBC was directed to review departmental budgets and present updates to the Board on a weekly basis. The committee's deliberations were closed to the public lacking transparency, but updates were provided to the supervisors at public meetings of the Board of Supervisors.

ISSUES OF CONCERN

APPROPRIATENESS OF THE EXECUTIVE BUDGET COMMITTEE

The Fresno County Charter, County Policies, and Management Directives all clearly specify that the CAO is responsible for the preparation of the annual budget of the county for the Board of Supervisors and shall be responsible for its administration after adoption. Past budgets were compiled by the CAO and staff and presented to the Board. According to testimony, the formation of the EBC took away the explicit budget responsibilities of the CAO and rendered the CAO less effective.

Although this practice is not prohibited by the County Charter, it created a tenuous relationship between the CAO, County Board of Supervisors, and county staff. This resulted in extra CAO and department staff time performing several versions of the budget numbers. Some department heads and county staff said these various versions still were not fully considered or utilized in the formation of the final recommended budget. Over the course of several months, the committee spent more than 100 hours combing through the county's 23 departmental budgets. Normally, the CAO and his staff would be responsible for leading and engaging the county departments in the development of the budget; but the EBC took on this role, thereby duplicating work done by the CAO and staff analysts.

The presence of the supervisors on the EBC created an environment where county staff were reticent in their participation. It was said that the supervisors entered into the EBC with the opinion that they did not have confidence in the budget analyses done by the CAO and his staff. Several department heads indicated that the CAO and his staff were not fully engaged in this process. They were in the meetings but did not openly participate in discussions. This situation placed the CAO and department staff in the awkward position of wanting to support their original work but attempting to please the county supervisors on the committee and their wishes for additional budget cuts.

EFFECTIVENESS OF THE EXECUTIVE BUDGET COMMITTEE

The intention of the EBC was to prevent the political bickering and demands for more funding by county departments, but supervisors who were not on the committee said that they felt they were not fully informed. They also stated that the updates did not provide the details needed in a timely manner. The details necessary to make informed decisions were provided when the full budget was given to the supervisors only 10 days before the budget hearing meeting. Some supervisors indicated that the budget committee process was dysfunctional and a waste of time and should have been left in the hands of the CAO. Even though the Board, by unanimous vote, created the EBC, some members later regretted their decision, realizing that the process was cumbersome and did not achieve the intended results.

Only one county department head and the supervisors on the committee believed that the process allowed the EBC to analyze how departments managed their money and to find ways to be more efficient. All others interviewed and involved in the process disagreed with the effectiveness of the committee process. Some county department heads believed their requests were ignored or pushed aside and not fully considered. The EBC requested more numbers and, in more than one instance, subsequently slashed budget numbers without explanation of why or how the numbers were to be used. They then arbitrarily replaced the departments' estimated budget numbers with figures of their own. This process, which should have been considered by the full Board of Supervisors, ignored department operating needs and was the cause of much frustration.

EFFICIENCY OF THE EXECUTIVE BUDGET COMMITTEE

The Executive Budget Committee created a situation where two board members had access to more detailed information earlier than the rest of the Board. They reviewed budget information which was detailed in nature containing supporting analysis for specific budget line items. This potentially allowed them to have their individual inputs into their specific areas of concern prior to the full Board of Supervisors' involvement in the budget.

While the Executive Budget Committee provided periodic updates on the developments of the 2008/09 FY Budget to the entire Board of Supervisors, it was stated to the grand jury that the updates were too general in nature and did not provide specific budget line items where the Board could engage in meaningful discussions. This resulted in board members not receiving the full detailed budget information for each county department in a timely manner prior to the budget hearing. Some supervisors received information on the budget only 10 days prior to the budget hearing, which they indicated was not sufficient time to review, question, and discuss any budget items with the CAO. The EBC lengthened the budget development process, thereby shortening the time available for the rest of the supervisors to review the budget fully and adequately by the required adoption date.

CONCLUSION

The Board sanctioned the Executive Budget Committee concept with the intent of assisting the CAO in the budget process. The goal was to review each line item of the budget in hopes of finding savings in the county budget. However, the result was a cumbersome process that monopolized staff time with little or no budget savings.

The appropriate course of action for the Board would have been to follow the County Policies and Procedures in the development of the budget. Creating this committee placed two members of the Board in a position where they may have influenced budget figures early in the development process.

The inefficiencies of this process are evident in the more than 100 hours of staff time which could have been avoided if the Board had trusted the CAO and county staff to provide them with a responsible and conscientiously developed budget. To increase effectiveness and improve public perception, the budget process is best handled in a manner that is transparent, cooperative, and in the best interest of the county.

FINDINGS

- F201 The formation of the Executive Budget Committee by the County Board of Supervisors took away responsibilities of the CAO specified in the County Charter, Fresno County Supervisors' Administrative Policy #13, and the Fresno County Management Directive.
- F202 The Executive Budget Committee created animosity and extra work for all involved.
- F203 The Board of Supervisors created the Executive Budget Committee due to lack of confidence in the CAO and staff to provide sufficient budget number details.
- F204 The Executive Budget Committee allowed two board members to have access to more detailed information before the rest of the Board.
- F205 The Board of Supervisors as a whole was not provided the full budget and ancillary supporting documents in a prudent and timely manner for sufficient consideration prior to the budget hearing.

RECOMMENDATIONS

The 2008-09 Fresno County Grand Jury requests that the following recommendations be implemented.

- R201 That the Board adhere to the County Charter which identifies the role of the CAO in the development of the county budget. (F201)
- R202 That the Board adhere to the Fresno County Supervisors' Administrative Policy #13 and the Management Directive which directs the CAO to prepare the county budget. (F201)
- R203 That the CAO hire personnel with sufficient training and experience to prepare the county budget. (F203)
- R204 That the Board of Supervisors is careful not to form committees where any member(s) of the Board may be in a privileged position to guide policies and direction that may not reflect the intentions of the entire Board. (F204)
- R205 That all members of the Board of Supervisors are to receive the proposed recommended budget in sufficient time for adequate consideration prior to the public budget hearing. (F205)

REQUEST FOR RESPONDENTS

Pursuant to Penal Code 933.05, the Fresno County Grand Jury requests responses to each of the specific findings and recommendations. It is required that responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

RESPONDENTS

Fresno County Board of Supervisors F201 - F205, R201 - R205
Fresno County Administrative Officer F203, F205, R203, R205
Fresno County Personnel Director F203, R203

SOURCES AND REFERENCES

Interviews

Fresno County Supervisors
Fresno County Administrative Office
Fresno County Department heads and/or staff in the following departments:
Office of Auditor-Controller/Treasurer-Tax Collector
Behavioral Health
Personnel
Sheriff

Fresno Bee Articles and Editorials
June 21, 2008
July 26, 2008
August 14, 2008

Fresno County Board Agenda
Item #7, March 25, 2008
Item #18, April 22, 2008
Item #7, May 20, 2008

Fresno County Charter last amended November 3, 1992
Fresno County Administrative Management Directive Section 612.3, approved
November 7, 1990 and revised March 15, 2006
Fresno County Supervisors Administrative Policy #13
Fresno County 2008/09 Recommended Budget dated June 16, 2008

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RESPONSES

A. Fresno County Board of Supervisors
R201 through R205

B. Fresno County Administrative Office
R203 and R205

C. Fresno County Personnel Director
R203

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County of Fresno

CHAIRMAN
BOARD OF SUPERVISORS
SUPERVISOR SUSAN B. ANDERSON – DISTRICT TWO

March 25, 2009

The Honorable M. Bruce Smith
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

RE: RESPONSE TO THE 2008-09 GRAND JURY FINAL REPORT #2

Dear Judge Smith:

The Board of Supervisors has approved its official responses to the recommendations pertaining to Fresno County contained in the 2008-09 Grand Jury Final Report #2. The responses are submitted herewith in fulfillment of Penal Code Section 933(c). Also, please find all other required County department responses enclosed in this packet as well.

On behalf of the Fresno County Board of Supervisors, I would like to take this opportunity to thank the Grand Jury for their hard work and to assure them that Fresno County takes the concerns raised in these reports very seriously.

Sincerely,

Susan B. Anderson, Chairman
Board of Supervisors

Enclosure

County of Fresno
Board of Supervisors
RESPONSE TO THE
2008-09
FRESNO COUNTY GRAND JURY
FINAL REPORT #2



FRESNO COUNTY EXECUTIVE BUDGET COMMITTEE

Please find below the Fresno County Board of Supervisor's response to the 2008-09 Grand Jury Final Report #2.

Findings

F201: The formation of the Executive Budget Committee by the County Board of Supervisors took away responsibilities of the CAO specified in the County Charter, Fresno County Supervisors' Administrative Policy #13, and the Fresno County Management Directive.

The Board of Supervisors agrees with the findings; however, the intent of the Executive Budget Committee was to assist the CAO in the budget preparation process.

F202: The Executive Budget Committee created animosity and extra work for all involved.

The Board of Supervisors agrees that departments were requested to provide information; however, the request for information was for the purpose of making informed recommendations on departmental budgets.

F203: The Board of Supervisors created the Executive Budget Committee due to lack of confidence in the CAO and staff to provide sufficient budget number details.

The Board of Supervisors disagrees with the findings. As stated earlier, the Executive Budget Committee was created to assist the CAO in the budget preparation process.

F204: The Executive Budget Committee allowed two board members to have access to more detailed information before the rest of the Board.

The Board of Supervisors partially disagrees with the findings. The structure of the Executive Budget Committee, as approved by the full Board, included two Board members. As such, all committee members including the two Board members had to review documents to make informed recommendations to the Board as a whole.

F205: The Board of Supervisors as a whole was not provided the full budget and ancillary supporting documents in a prudent and timely manner for sufficient consideration prior to the budget hearing.

The Board of Supervisors agrees that all Board members should have access to the full budget and necessary supporting documents with sufficient time to review and make informed inquiries.

Recommendations

R201: That the Board adhere to the County Charter which identifies the role of the CAO in the development of the county budget.

The recommendation has been implemented. The CAO is responsible for development of the 2009-10 county budget.

R202: That the Board adhere to the Fresno County Supervisors' Administrative Policy #13 and the Management Directive which directs the CAO to prepare the county budget.

The recommendation has been implemented. The CAO is responsible for preparation of the 2009-10 county budget.

R203: That the CAO hire personnel with sufficient training and experience to prepare the county budget.

The recommendation has been implemented. The CAO has personnel with sufficient training and experience to prepare the county budget.

R204: That the Board of Supervisors is careful not to form committees where any member(s) of the Board may be in a privileged position to guide policies and direction that may not reflect the intentions of the entire Board.

The recommendation has been implemented. The CAO is responsible for development of the 2009-10 county budget.

R205: That all members of the Board of Supervisors are to receive the proposed recommended budget in sufficient time for adequate consideration prior to the public budget hearing.

The recommendation has been implemented. The CAO has indicated that all Board members will receive the 2009-10 recommended budget in sufficient time for adequate consideration prior to the public budget hearings. In addition, all Board members will receive budget briefings throughout the budget development process.



County of Fresno
COUNTY ADMINISTRATIVE OFFICE
JOHN NAVARRETTE
COUNTY ADMINISTRATIVE OFFICER

February 18, 2009

The Honorable M. Bruce Smith
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

RE: RESPONSE TO THE 2008-09 GRAND JURY FINAL REPORT #2

Dear Judge Smith:

The following is the County Administrative Officer's response to the Findings and Recommendations of the 2008-09 Fresno County Grand Jury Final Report #2.

Findings

F203: The Board of Supervisors created the Executive Budget Committee due to lack of confidence in the CAO and staff to provide sufficient budget number details.

The CAO partially disagrees with the findings. The intent of the Executive Budget Committee was to assist the CAO in the budget preparation process.

F205: The Board of Supervisors as a whole was not provided the full budget and ancillary supporting documents in a prudent and timely manner for sufficient consideration prior to the budget hearing.

The CAO partially disagrees with the findings. Due to time constraints in finalizing the recommended budget, the CAO attempted to give all Board members the full budget and necessary supporting documents with sufficient time to review and make informed inquiries.

Recommendations

R203: That the CAO hire personnel with sufficient training and experience to prepare the county budget.

The recommendation has been implemented. The CAO has personnel with sufficient training and experience to prepare the county budget.

R205: That all members of the Board of Supervisors are to receive the proposed recommended budget in sufficient time for adequate consideration prior to the public budget hearing.

The recommendation has been implemented. All Board members will receive the recommended budget in sufficient time for adequate consideration prior to the public budget hearing. In addition, the Board of Supervisors will be briefed throughout the budget development process.

Sincerely,

John Navarrette
County Administrative Officer

cc: Board of Supervisors



Department of Personnel Services
Ralph Jimenez, Director

Administration/Classification/SD&T Division

March 12, 2009

The Honorable M. Bruce Smith
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

RE: RESPONSE TO THE 2008-09 GRAND JURY FINAL REPORT #2

Dear Judge Smith:

The following is the Director of Personnel Services' response to the Findings and Recommendations of the 2008-09 Fresno County Grand Jury Final Report #2.

Findings

F203: The Board of Supervisors created the Executive Budget Committee due to lack of confidence in the CAO and staff to provide sufficient budget number details.

The Department of Personnel Services defers the response to the County Administrative Office and the Board of Supervisors.

Recommendations

R203: That the CAO hire personnel with sufficient training and experience to prepare the county budget.

The Department of Personnel Services defers the response to the County Administrative Office and the Board of Supervisors.

Sincerely,

Ralph Jimenez
Director of Personnel Services

RECEIVED

MAR 13 2009

ADMINISTRATIVE OFFICE

cc: Board of Supervisors
County Administrative Office (Attn: Jeannie Figueroa)
Grand Jury Foreman

2220 Tulare Street 16th Floor, Fresno, California 93721
FAX (559) 488-3325 www.co.fresno.ca.us

| | | | |
|---|----------|--------------------------------|----------|
| Administration/Classif./SD&T-Beth Bandy | 488-3266 | Employee Benefits-Paul Nerland | 488-3069 |
| Employment Services-John Pinheiro | 488-3364 | Employment Verification | 488-3368 |
| Labor Relations-DeAnn VonBerg | 488-3048 | Risk Management-Greg Borboa | 488-3360 |



County of Fresno
COUNTY ADMINISTRATIVE OFFICE
JOHN NAVARRETTE
COUNTY ADMINISTRATIVE OFFICER

February 18, 2009

The Honorable M. Bruce Smith
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

RE: RESPONSE TO THE 2008-09 GRAND JURY FINAL REPORT #2

Dear Judge Smith:

The following is the County Administrative Officer's response to the Findings and Recommendations of the 2008-09 Fresno County Grand Jury Final Report #2.

Findings

F203: The Board of Supervisors created the Executive Budget Committee due to lack of confidence in the CAO and staff to provide sufficient budget number details.

The CAO partially disagrees with the findings. The intent of the Executive Budget Committee was to assist the CAO in the budget preparation process.

F205: The Board of Supervisors as a whole was not provided the full budget and ancillary supporting documents in a prudent and timely manner for sufficient consideration prior to the budget hearing.

The CAO partially disagrees with the findings. Due to time constraints in finalizing the recommended budget, the CAO attempted to give all Board members the full budget and necessary supporting documents with sufficient time to review and make informed inquiries.

Recommendations

R203: That the CAO hire personnel with sufficient training and experience to prepare the county budget.

The recommendation has been implemented. The CAO has personnel with sufficient training and experience to prepare the county budget.

R205: That all members of the Board of Supervisors are to receive the proposed recommended budget in sufficient time for adequate consideration prior to the public budget hearing.

The recommendation has been implemented. All Board members will receive the recommended budget in sufficient time for adequate consideration prior to the public budget hearing. In addition, the Board of Supervisors will be briefed throughout the budget development process.

Sincerely,

John Navarrette
County Administrative Officer

cc: Board of Supervisors



Department of Personnel Services
Ralph Jimenez, Director

Administration/Classification/SD&T Division

March 12, 2009

The Honorable M. Bruce Smith
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

RE: RESPONSE TO THE 2008-09 GRAND JURY FINAL REPORT #2

Dear Judge Smith:

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Recommendations

R203: That the CAO hire personnel with sufficient training and experience to prepare the county budget.

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Sincerely,

Ralph Jimenez
Director of Personnel Services

cc: Board of Supervisors
County Administrative Office (Attn: Jeannie Figueroa)
Grand Jury Foreman

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| Labor Relations-DeAnn VonBerg | 488-3048 | Risk Management-Greg Borboa | 488-3360 |

REPORT #3

FRESNO COUNTY BUDGET CUTS AND BOARD ASSISTANTS

FILED

MAR 26 2009

2008-2009

FRESNO COUNTY SUPERIOR COURT

By _____ DEPUTY

FRESNO COUNTY GRAND JURY



FINAL REPORT

#3

**Fresno County
2008 – 2009 Grand Jury
Report #3**

Fresno County Budget Cuts & Board Assistants

“Leadership is action, not position.” ~Donald H. McGannon

INTRODUCTION

During the past several years, the Fresno County Board of Supervisors (Board or Board of Supervisors) has been faced with difficult fiscal decisions. The county is currently in a mid-year budget crisis, faced with the need to scale back county spending. The Board has chosen several areas to cut, directed county staff to enter into a furlough status, and has frozen hiring of any additional staff. Because of this precarious situation, media attention, and the potential elimination of vital county services, the Fresno County Grand Jury decided to look at budgeted items not mentioned for reductions. Specifically, we examined the Board of Supervisors’ staffing and budget and the appropriateness of these positions during these financial times. During this investigation, the grand jury also considered the effectiveness, efficiency, and management structure associated with these positions.

During the course of this investigation, the grand jury interviewed 13 witnesses, reviewed Fresno County Board of Supervisors’ agenda items, agenda meeting minutes, three fiscal years of Fresno County recommended and adopted budgets, and various media articles. The grand jury also reviewed the Fresno County Salary Resolution and job descriptions for specific county positions. We also reviewed the Fresno County Charter (Charter), specifically the section that identifies those positions exempt from civil service status, thereby creating them as at-will positions within Fresno County.

BACKGROUND

FRESNO COUNTY BUDGET CUTS

Several factors have contributed to the current financial position of the county. These include the recent downturn in the housing market resulting in lower property tax revenues, the reduction in vehicle license fee funds, and the sluggish retail sales market which has resulted in less sales tax revenues for the county. These problems are not unique to Fresno County; they are being felt across the nation. What is unique to Fresno County are the decisions being made by the Board of Supervisors about how to close the budget gap and which services should be maintained and at what level.

The county budget is in constant flux. A recent accounting audit disclosed the availability of an additional \$21 million. The Williamson Act Fund provided another \$4.7 million, so both placed the county in a more positive position for the 2008/09 fiscal year (FY). The Auditor/Controller has estimated that revenues for next year will continue to decline. This still will require the Board of Supervisors to make decisions on needed budget cuts for the next fiscal year.

BOARD OF SUPERVISORS' BUDGET AND STAFFING

The FY 2008/09 Budget for the Board of Supervisors includes salaries for the five Supervisors, ten Board Member Assistants (Board Assistants), other ancillary staff, and other operating expenses for the department. In January 2007 (FY 2007/08), changes to the Board of Supervisors' budget were made to increase the staffing level of the Board Assistants from five to ten positions. To fund these positions, a budget transfer was made transferring unspent staffing monies from the County Administrative Officer's (CAO) department budget to the Board of Supervisors' budget. This decision was made even though the county was facing declining revenues. The expansion of these positions is of interest to the grand jury.

CREATION OF BOARD ASSISTANT POSITIONS

Originally, the Fresno County Board of Supervisors contracted with independent contractors to fulfill the positions that are currently called Board Assistants. In 1988, to resolve Internal Revenue Service issues from the use of independent contractors, the Board decided to convert these positions from independent contractors to county staff. In doing so, the Supervisors found the need to create these positions as at-will positions. Witness testimony provided to the grand jury defined at-will positions as employment that can be ended at any time for any reason without fear of legal action.

As stated in Fresno County Salary Resolution footnote (g), at-will positions are exempt from civil service provisions specified in the Charter. The Charter, Section 44, subsection 2. (f) specifies civil service status and lists those positions exempt from civil service thereby creating those positions as at-will. Included in that section of the Charter are the following positions:

County Administrative Officer, Assistant County Administrative Officers, Deputy County Administrative Officers, the Director of Planning, the Director of Personnel, the Hospital Administrator, and any other department head and positions where previous professional examination and certification is required under state law, such as doctors, lawyers, and nurses.

The Charter, as currently written, does not list the positions of Board Assistants as exempt from civil service status, in other words, at-will. Rather than amend the Charter, the Board decided to amend the Fresno County Salary Resolution footnote (g) to classify these positions as Deputy County Administrative Officers (Deputy CAO) which is a position listed in the Charter as exempt from civil service.

ISSUES OF CONCERN

FRESNO COUNTY BUDGET CUTS

The Board of Supervisors has suggested and, in some cases passed, proposals to close the budgetary gap. These include decisions to cut service levels in departments such as Parks and Recreation, Department of Behavioral Health, and the Department of Community Health. In addition, the Board will be requiring over half of the county employees to accept 80 hours of furlough during the current and upcoming fiscal years. Witness testimony to the grand jury, media articles, and Board meeting minutes revealed some of the budget changes made by the Board in January, February and March 2009. These changes include:

- *37 public health jobs eliminated: 13 were vacant positions, 9 positions were moved to other County jobs leaving 15 without immediate jobs. Most cuts were in the California Children Services program which treats 8,500 people in Fresno County under the age of 21 for many conditions including cystic fibrosis, heart disease, and cancer;*
- *The Board cut \$800,000 from the Department of Behavioral Health, resulting in the elimination of 5 positions and other departmental expenses;*
- *The Board approved the closure of Fresno County's only 24-hour psychiatric center which will cut 45 jobs;*
- *The Board approved the layoff of 21 development service workers in March 2009;*
- *Over half of the county employees will be required to take 80 hours of unpaid leave during the current and upcoming fiscal years starting in March 2009;*
- *The Board is contemplating the closure of 17 county parks which would save \$220,000 by June 30, 2009 or \$1.5 million over an 18-month period; and*
- *At the same time as cutting county resources, the Board also increased the CAO's salary by 18%, which amounts to an annual salary increase of \$28,000.*

Witness testimony to the grand jury regarding the budget cuts indicated that the Board considered too many cuts to critical core county services that would result in risking public safety. For example, reductions in some resources to the Department of Community Health will leave some sections only the bare minimum in resources needed to handle the identification and treatment of potential outbreaks of communicable diseases. This department handles health-related diseases which have the potential to spread indiscriminately throughout the county to all residents. Without the proper resources, the county is vulnerable to possible outbreaks of virulent strains of tuberculosis and other communicable diseases if not identified and treated in a timely manner.

While some of the actions considered by the Board are good attempts at closing the budget gap, not all options for efficiencies have been considered. One glaring omission is the Board of Supervisors' own budget and staffing. For example, the grand jury looked at two prior county budgets (Fiscal Years 2006-07 and 2007-08) to compare the Board of Supervisors' Budget to the Department of Community Health. At the time the Board of Supervisors increased their own staffing by five additional positions; the Department of

Community Health was decreased by 51 positions. The most recent budget (FY 2008/09) shows an even further decline of 72 positions for the Department of Community Health.

BOARD MEMBER ASSISTANTS

Several witnesses testified to the lack of experienced professional staff in the CAO's office to provide timely and accurate information to the Board for use in their decision-making process. The concept of the five additional Board Member Assistants had been an ongoing Board discussion for several years as a solution for filling that need. The additional five positions were added during a mid-year budget adjustment in January 2007 when the Board also approved the transfer of \$138,953 from the CAO's budget to the Board of Supervisors' budget. This transfer resulted in a decrease in the number of analyst positions in the CAO's office and an increase in staffing in the Supervisors' office. The 2008/09 FY Fresno County Budget for the Board of Supervisors shows the annual regular salaries for the ten Board Assistants as \$569,300 not including benefits.

Testimony to the grand jury indicated that Board Member Assistants' work can be grouped into two categories: 1) Clerical in nature, answering constituent calls, handling correspondence, keeping the calendar for the supervisor, and attending meetings for the supervisor, and 2) Coordination and promotion of projects of interest to their supervisor, handling issues that are specific to the supervisors' districts, and reviewing and summarizing legislation for their supervisor. It is evident from testimony that their tasks are specific to their own supervisor's district and, for the most part, not countywide.

COUNTY CHARTER AND MANAGEMENT STRUCTURE

The action by the Board of Supervisors to create the Board Member Assistant positions as at-will by amending Section 100 – footnote (g) of the Fresno County Salary Resolution created a method to circumvent an amendment to the Fresno County Charter. This amended section identifies Board Member Assistants as Deputy CAOs and as at-will employees of their department head, the CAO.

The Fresno County job description for the position of Deputy CAO lists the education and experience requirements for the job and the duties of this position. It identifies this position as a high-level management and supervisory county position requiring a professional college degree and paid experience in a high-level governmental capacity. Job duties include budget planning, development and analysis of organizational structures, staffing patterns, and systems and procedures.

The Fresno County job description for the position of Board Member Assistant, which is designated as Deputy CAO, lists typical tasks for the assistant as generally clerical and performing as an administrative assistant. The experience and education required for this position is only that which is acceptable to the appointing Board member. The typical tasks and educational requirements for this position are not consistent with those of the position of Deputy CAO as specified in the Fresno County job descriptions.

This Board action created a convoluted management structure whereby the CAO is the department head for the Deputy CAOs, in this case, the Board Member Assistants. Witness testimony to the grand jury stated that these Board Assistants report directly to the Supervisor rather than their department head, the CAO. This creates a reporting structure that bypasses the CAO. However, the CAO is still technically the department head and should be the direct supervisor for the Board Member Assistants. Under the current structure, the CAO has no direct supervision over the duties of these Board Assistants. This structure of Board Assistants serving under the guise of Deputy CAOs circumvents the Fresno County Charter.

Additional testimony from county staff indicates that Board Assistants act independently of each other in gathering information from county departments to address their own district's constituent concerns. When Board Assistants contact departments directly, the CAO is out of the loop concerning information that could be of benefit to the entire county. This management structure potentially creates inefficiency and duplication of work and further erodes the authority of the CAO to manage departments under his responsibility. The CAO may not be fully aware of all the demands made by Board Assistants, placing county departments in a position to respond to supervisors' requests at the expense of other county work already in line.

The grand jury reviewed information on file with the Fresno County Clerk for the last amendment to the County Charter Section 44.2 (f) dated November 2, 1976, which sets a precedent for how exempt civil service positions are created. The amendment added the positions of Assistant CAO and Deputy CAO to the list of exempt positions from the classified civil service status of the Charter. This amendment to the Charter was placed on the voter ballot as Measure E and passed with a 54.3% approval of the voters. The decision to create and establish the Board Assistant positions as exempt from the civil service status was never taken to the voters for consideration.

CONCLUSION

To quote one Fresno County Supervisor, "The furlough plan is a better option than permanent layoffs. The supervisors should take a pay cut equivalent to the amount lost by furloughed employees." To quote another Board Supervisor, "We are not in the business of keeping people in work." The grand jury believes that before more county layoffs and work furloughs are considered, more effort should be made by the supervisors to find efficiencies within their own department and staffing. When making cuts in county departments that affect all Fresno County residents, it is the responsibility of the Board to leave intact and fund operations which serve all residents rather than a select few. The Board of Supervisors should first fully consider all options, especially the appropriateness of positions within their own department.

Work completed by Board Assistants appears to benefit specific county districts rather than the county as a whole. This allows supervisors to provide immediate response to

district concerns. This arrangement is useful for the supervisors because it keeps voters mindful of the work being done by their supervisor.

The formation of Board Member Assistant positions as at-will employees to serve at the pleasure of the Board member was well intended. Since this was the desire of the Board, an amendment to the County Charter to include the position of Board Member Assistant as an exempt position from civil service status should have been placed before the voters. Changing the Fresno County Salary Resolution to classify these positions as Deputy CAOs rather than amend the Fresno County Charter complicates the current management structure in the CAO's office and, one witness testified, "...was a creative solution which has yet to be legally tested."

The way the Board of Supervisors and we, as a community, deal with the budget crisis will highlight our priorities and demonstrate our fairness to each other as residents of Fresno County. The Board has made several budget cuts to critical core county services that could result in risking the health and safety of the public. Witness testimony provided to the grand jury summed up the current budget situation, "During these times, we need to focus on core business."

FINDINGS

- F301 The Board budget cuts to county departments have forced reductions in some critical services vital to the entire community.
- F302 During these dire financial times, the supervisors increased staffing in their own department while they reduced resources in departments that provide critical services.
- F303 One Board Member Assistant is sufficient to maintain the supervisor's schedule, return constituent calls, and perform general office work.
- F304 The Board Member Assistants do not currently utilize the CAO's office as the point of contact for information from county departments.
- F305 Board Member Assistants do not keep the CAO informed when gathering and requesting information for their supervisor.
- F306 Naming Board Member Assistants as Deputy CAOs has created a complicated management structure in the CAO's office.

RECOMMENDATIONS

The 2008-09 Fresno County Grand Jury recommends that the following be implemented.

- R301 That the Board consider reducing salaries and staffing levels in their own department before cutting critical services to the county. (F301) (F302)
- R302 That the Board investigate the use of community volunteers and interns to supplement their staffing needs. (F302) (F303)
- R303 That the Board utilize already available county resources from the appropriate county departments through the CAO's office. (F304) (F305)
- R304 That the Board keep the CAO informed by using that office as the point of contact for obtaining and analyzing Board requested information. (F304) (F305) (F306)

REQUEST FOR RESPONDENTS

Pursuant to Penal Code 933.05, the Fresno County Grand Jury requests responses to each of the specific finding and recommendations. It is required that responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

RESPONDENTS

Fresno County Board of Supervisors F301 - F306, R301 - R304
Fresno County Administrative Officer F304 - F306, R303, R304

SOURCES AND REFERENCES

Interviews

- Fresno County Supervisors and Board Assistants
- Fresno County Administrative Office Staff
- Fresno County Department heads and staff in the following departments:
 - Auditor/Controller
 - Behavioral Health
 - County Clerk
 - County Counsel
 - District Attorney
 - Personnel
 - Public Health
 - Sheriff

Fresno Bee Articles and Editorials Reviewed

- January 10, 2009 - "CPS workers mourn – feel heat"
- January 14, 2009 - "Fresno County cuts 37 health jobs"
- January 17, 2009 - "Thumbs up, thumbs down – Fresno County Supervisors"
- January 24, 2009 - "Fresno County panel to mull park closures"
- January 25, 2009 - "Now isn't the time to close parks in county"
- January 28, 2009 - "Fresno County slices at budget"
- January 29, 2009 - "Supervisors need to stay public when pay is sliced"
- February 1, 2009 - "Fresno County announces worker furloughs"
- February 2, 2009 - "Navarrette: Insistence on pay raise seen as potential problem"
- February 4, 2009 - "Fresno County in line for \$21m tax refund"
- February 5, 2009 - "3 Supervisors take pay cut; 2 others will consider hits"
- March 4, 2009 - "Fresno County planners to keep jobs"

Fresno County Board Agenda and Minutes

- Item #22 dated November 29, 1988, Subject: Board Member Assistants
- Item #5 dated December 5, 2006, Subject: Fiscal Year 2007-08 Budget
- Item #7 dated January 23, 2007, Subject: Board Member Analyst Positions
- Item #26 dated January 30, 2007, Subject: Salary Resolution Amendments

Fresno County Charter Section 44.2 (f) last amended November 3, 1992

Fresno County 2006/07 Adopted Budget dated June 2006

Fresno County 2007/08 Adopted Budget dated July 12, 2007

Fresno County 2008/09 Recommended Budget dated June 16, 2008

Fresno County Salary Resolution

Fresno County Classification Specifications for Board Member Assistants and Deputy County Administrative Officers

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RESPONSES

A. Fresno County Board of Supervisors
R301 through R304

B. Fresno County Administrative Officer
R303 through R304

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County of Fresno

COUNTY ADMINISTRATIVE OFFICE

JOHN NAVARRETTE

COUNTY ADMINISTRATIVE OFFICER

May 12, 2009

The Honorable M. Bruce Smith
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

RE: RESPONSE TO THE 2008-09 GRAND JURY FINAL REPORT #3

Dear Judge Smith:

The Board of Supervisors has approved its official responses to the recommendations pertaining to Fresno County contained in the 2008-09 Grand Jury Final Report #3. The responses are submitted herewith in fulfillment of Penal Code Section 933(c). Also, please find all other required County department responses enclosed in this packet as well.

On behalf of the Fresno County Board of Supervisors, I would like to take this opportunity to thank the Grand Jury for their hard work and to assure them that Fresno County takes the concerns raised in these reports very seriously.

Sincerely,

Susan B. Anderson, Chairman
Board of Supervisors

Enclosure

County of Fresno
Board of Supervisors
RESPONSE TO THE
2008-09
FRESNO COUNTY GRAND JURY
FINAL REPORT #3



FRESNO COUNTY BUDGET CUTS AND BOARD ASSISTANTS

Please find below the Fresno County Board of Supervisor's response to the 2008-09 Grand Jury Final Report #3.

Findings

F301: The Board budget cuts to county departments have forced reductions in some critical services vital to the entire community.

The Board of Supervisors partially agrees with the finding. Unfortunately, declining revenues forced the Board to make difficult budget reduction decisions; however, attempts have been made to prioritize in order to minimize the extent of cuts to areas of vital services.

F302: During these dire financial times, the supervisors increased staffing in their own department while they reduced resources in departments that provide critical services.

The Board of Supervisors disagrees with the finding. The decision to add Board Member Assistant positions to address workload increases was made over two years ago prior to the current economic crisis. This action had been postponed on previous occasions; however, the workload continued to increase. Savings in the County Administrative Office budget were utilized to offset the cost of the additional positions. As such, there was no additional County cost associated with this action.

F303: One Board Member Assistant is sufficient to maintain the supervisor's schedule, return constituent calls, and perform general office work.

The Board of Supervisors disagrees with the finding. These listed duties are only a few of the many necessary responsibilities of Board Member Assistants. Other duties of Board Member Assistants include, but are not limited to, researching policy, writing reports, analyzing agenda items, planning events, representing Supervisors at meetings, and researching and procuring grant funds for the County.

In addition, the significant increase in Fresno County's population over the last 25 years has continued to place additional demands on Board members and their staff. It should be noted that comparable jurisdictions typically have three or more staff positions to assist members of the Board of Supervisors.

F304: The Board Member Assistants do not currently utilize the CAO's office as the point of contact for information from county departments.

The Board of Supervisors disagrees with the finding. Often times Board Member Assistants work through the CAO when requesting information from departments.

F305: Board Member Assistants do not keep the CAO informed when gathering and requesting information for their supervisor.

The Board of Supervisors disagrees with the finding. When appropriate and necessary the Board Member Assistants advise the CAO when requesting information from departments.

F306: Naming Board Member Assistants as Deputy CAOs has created a complicated management structure in the CAO's office.

The Board of Supervisors disagrees with the findings. Although Board Member Assistants work directly with their Supervisor on a day to day basis, they also work closely with the CAO on an as needed basis. This arrangement has not created management issues in the CAO's office. In addition, there is no confusion among those who work in the office of Board members or the CAO's office about the role of staff, lines of authority, or management structure.

Recommendations

R301: That the Board consider reducing salaries and staffing levels in their own department before cutting critical services to the county.

The recommendation requires further analysis. When the Board reviews the CAO's 2009-10 recommended budget, all areas of the County will be scrutinized for savings and efficiencies to maximize service delivery to the public. Additionally, individual Board members have indicated they will serve with reduced compensation and their staff will participate in the furlough program and any other countywide reduction strategies.

R302: That the Board investigate the use of community volunteers and interns to supplement their staffing needs.

The recommendation reflects current practice. Board Members utilize volunteers and interns to assist with staffing needs; however, volunteers and interns are no substitute for work performed by Board Member Assistants.

R303: That the Board utilize already available county resources from the appropriate county departments through the CAO's office.

The recommendation reflects current practice when appropriate. The Board utilizes available county resources working through the CAO's office on many issues throughout the year.

R304: That the Board keep the CAO informed by using that office as the point of contact for obtaining and analyzing Board requested information.

The recommendation reflects current practice when appropriate. The Board regularly uses the CAO as the point of contact for obtaining and analyzing information on numerous occasions throughout the year.

It should be noted that using the CAO on every occasion would create an unnecessary bureaucracy and burden on CAO staff. Elected officials across the nation utilize staff support to independently conduct policy research, analysis, constituent services and other functions necessary for the elected body to create sound public policy and to meet community demands.



County of Fresno

COUNTY ADMINISTRATIVE OFFICE

JOHN NAVARRETTE

COUNTY ADMINISTRATIVE OFFICER

April 27, 2009

The Honorable M. Bruce Smith
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

RE: RESPONSE TO THE 2008-09 GRAND JURY FINAL REPORT #3

Dear Judge Smith:

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The CAO disagrees with the findings. On many occasions Board Member Assistants utilize the CAO's office as the point of contact.

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The CAO disagrees with the findings. When appropriate and necessary, Board Member Assistants keep the CAO informed when gathering and requesting information for their supervisor.

F306: Naming Board Member Assistants as Deputy CAOs has created a complicated management structure in the CAO's office.

The CAO disagrees with the findings. This arrangement has not created management issues in the CAO's office.

Recommendations

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The recommendation has been implemented. On many occasions, the Board utilizes available county resources working through the CAO's office.

R304: That the Board keep the CAO informed by using that office as the point of contact for obtaining and analyzing Board requested information.

The recommendation has been implemented. The Board uses the CAO as the point of contact for obtaining and analyzing information on a variety of issues throughout the year.

Sincerely,

John Navarrette
County Administrative Officer

cc: Board of Supervisors
Marilyn Watts, Grand Jury Foreman

Hall of Records / 2281 Tulare Street, Room 304 / Fresno, California 93721 / Phone (559) 488-1710 / Fax (559) 488-1830

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County of Fresno

COUNTY ADMINISTRATIVE OFFICE

JOHN NAVARRETTE

COUNTY ADMINISTRATIVE OFFICER

April 27, 2009

The Honorable M. Bruce Smith
Presiding Judge, Superior Court
1100 Van Ness Avenue
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Sincerely,

John Navarrette
County Administrative Officer

cc: Board of Supervisors
Marilyn Watts, Grand Jury Foreman

REPORT #4

PLEASANT VALLEY STATE PRISON

FILED

APR 09 2009

FRESNO COUNTY SUPERIOR COURT
By _____ DEPUTY

2008-2009

FRESNO COUNTY GRAND JURY



FINAL REPORT

#4

**Fresno County
2008 – 2009 Grand Jury
Report # 4**

PLEASANT VALLEY STATE PRISON

INTRODUCTION

In compliance with Section 919, subdivision (b), of the California Penal Code, “The grand jury shall inquire into the condition and management of the public prisons within the county,” the Fresno County Grand Jury has conducted its annual review of the Pleasant Valley State Prison (PVSP). This report addresses issues raised by prior grand juries. The grand jury visited PVSP on September 25, 2008 and was received with hospitality. The prison subcommittee interviewed various staff and the warden. Prison staff provided background information and answered questions.

BACKGROUND

Pursuant to state law, the grand jury is obligated to examine the operation and condition of any state prison located within Fresno County. Currently there is one such facility, the Pleasant Valley State Prison, which is located at 24863 West Jayne Avenue, in Coalinga, California. This institution was opened in November 1994 and covers 640 acres. According to the website, as of Fiscal Year 2007-2008, it had an operating budget of approximately \$200 million dollars. The staff totals 1,500. The prison is designed to house 2,200 inmates. However on the day of our visit, the inmate population was 5,191. There were two inmates per cell; others were housed in the gymnasium.

According to its mission statement:

Pleasant Valley State Prison provides long-term housing and services for minimum, medium and maximum custody inmates. Productivity and self-improvement opportunities are provided for inmates through academic classes, vocational instruction and work programs. PVSP provides Correctional Clinical Case Management System (CCCMS) mental health services. The Correctional Treatment Center provides diagnostic evaluation and treatment for inmates, including those in need of Mental Health Crisis Bed housing.

Inmate programs include arts, computer, vocational, academic, and religious programs, as well as community service work crews. There are substance abuse classes offered for inmates, as well as college level classes where inmates can obtain an Associate of Arts degree. General Equivalency Diploma (GED) testing is provided by the Avenal

School District. Additionally, certified classes are offered in the field of fiber optics. There are volunteers from surrounding communities, but many more volunteers are needed.

ISSUES OF CONCERN

AREAS INVESTIGATED

Since the last grand jury report (2007-2008), the present grand jury has not received any complaints from inmates concerning the operation of PVSP. However, the grand jury continues to be concerned about previous problem areas and recommendations. This report focuses on those areas previously mentioned and their current status. The problem areas previously reported were 1) provision of a medical wing, 2) concern over Valley Fever, 3) improved and updated medical record-keeping, 4) status of Federal Health Receivership, and 5) the need to revise pay scales for medical staff. The 2008-2009 Fresno County Grand Jury did not find any new areas of concern but, instead, focused on the status of prior concerns and recommendations.

PRIOR GRAND JURY RECOMMENDATIONS

As part of its report, the 2007-2008 Fresno County Grand Jury focused on medical care provided by Pleasant Valley State Prison. Its recommendations concerning health care were to continue to work on improving medical care provided to inmates, to look for ways to minimize the threat of Valley Fever, and to upgrade the prison computer system. The prior grand jury included in its recommendations that a secure wing for inmate patients be provided at Coalinga Regional Medical Center (CRMC), that adequate laboratory equipment be provided for the Correctional Treatment Center, that a more sophisticated and adequate system of medical record storage be implemented, and that the pay scale for physicians and nurses be revised.

As reported last year, all medical issues are now under the jurisdiction of a receiver appointed by the federal court. Some recommendations that were made have been followed. Improved laboratory equipment has been purchased. A compromise for improved pay scales was achieved by contracting for physicians and nurses through a medical registry. In addition, PVSP has converted paper medical records to an electronic format which can be forwarded to a prisoner's new location. However, physicians still do not have adequate office space.

The remainder of this report will focus on the areas that are still of concern. These areas are:

1. A secure medical wing at CRMC
2. Concern over Valley Fever
3. Status of federal health receivership

A SECURE MEDICAL WING

The Coalinga Regional Medical Center currently has no secure medical wing for prisoners from PVSP. Our investigation revealed that when inmates need hospitalization, they are transported to Bakersfield Community Medical Center, approximately one hour away. PVSP has contracted for twenty beds on the fifth floor of the Bakersfield hospital. When these beds are filled, inmates are transported to local hospitals in the surrounding area by correctional staff. This situation greatly impacts staffing and budget at PVSP. There continues to be support from the Coalinga community for a secure wing at Coalinga Regional Medical Center. However, California's current budgetary problems will impede this effort.

VALLEY FEVER

Valley Fever is widespread in the Coalinga area. This infection is caused by a fungus that lives in certain arid-type soils. Its spores are released into the air when the soil is disturbed by wind, farming, construction, and other activities. It is an ongoing concern that affects the health of both inmates and staff. Prior to 2003, the prison did not maintain records on Valley Fever. Testimony to the grand jury reported thirteen Valley Fever related deaths in the 2005-2006 years, three deaths in 2007, and no deaths in 2008.

Local prison officials are well aware of this health crisis and have taken steps to identify and address the problems associated with high-risk inmates. Our investigation revealed that inmates with compromised medical conditions (e.g., asthma, emphysema) at Pleasant Valley State Prison are transferred to another prison in the state. Additionally, a statewide effort was expanded in November 2007 to prevent inmates who are susceptible to the fungus from being housed at PVSP.

STATUS OF FEDERAL HEALTH RECEIVERSHIP

The entire health care system for the California Department of Corrections and Rehabilitation (CDCR) is currently under the jurisdiction of a court appointed Federal Receiver (Receiver). This was a result of a class action suit filed against the CDCR. There are four separate cases before four different federal judges. The cases deal with medical care, mental health care, dental care, and compliance with the Americans with Disabilities Act. The original plan developed by the Receiver in April, 2006 called for the Receiver to establish his remedial programs while the prison continued with the day-to-day health care operations. Within a short time, the Receiver had to assume control over daily prison healthcare functions. The Receiver is responsible for developing a plan of action and submitting quarterly written reports to the federal court. The report for the period of September 15, 2008 through January 15, 2009 details progress being made by the Receiver.

In early 2008, the Receiver produced a comprehensive report, "The Turnaround Plan of Action." The Receiver's goal was to resolve issues in the class action suits. "The Turnaround Plan of Action" provided schedules for completion and estimated costs. Various issues have contributed to the delay of completing the plan, such as construction delays, prison overcrowding, and budget concerns.

As of January 15, 2009, the following have been accomplished statewide:

1. Ninety percent of nursing positions statewide have been filled.
2. Paper medical files have been converted to electronic profiles.
3. A system is now in place to eliminate invoice backlog.
4. The Receiver has created a program to reduce drug costs by aggressively managing the pharmacy program and will begin an audit of providers and hospitals to find ways to reduce costs of specialty and hospital care,
5. An audit system has been in place since November 2008 to track patient-inmates' access to health care.

CONCLUSION

The prison population exceeds the bed space for which Pleasant Valley State Prison was originally designed. The location of this prison has increased health risks, adversely affecting both inmates and staff. While medical treatment for Valley Fever has improved, the location of the prison in this area, along with serious budget constraints, make this an ongoing problem. Individual prisons and staff have limited options since they are under the Federal Receivership. The Federal Receiver's recommendations will be difficult to implement given the current California budget deficit.

FINDINGS

F401 The state has not implemented a secure wing for inmates at Coalinga Regional Medical Center.

F402 Valley Fever continues to be an ongoing threat to inmates and staff.

F403 At the PVSP, the Federal Receivership has converted medical records to an electronic format.

F404 Doctors do not have adequate office space.

RECOMMENDATIONS

The 2008-2009 Fresno County Grand Jury recommends that the following be implemented.

R401 That the PVSP continue to work with the community to establish a secure wing for inmates at the Coalinga Regional Medical Center. (F401)

R402 That the PVSP look for new ways to minimize the threat of Valley Fever. (F402)

R403 That the PVSP provide adequate office space for doctors. (F404)

REQUEST FOR RESPONDENTS

Pursuant to Penal Code 933.05, the Fresno County Grand Jury requests responses to each of the specific findings and recommendations. It is required that responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

RESPONDENTS

James A. Yates, Warden Pleasant Valley State Prison (F401-404, R401-403)
Matthew Cate, Secretary of California Department of Corrections and Rehabilitation (F401-404, R401-403)

SOURCES AND REFERENCES

Interviews with warden and staff
Pleasant Valley State Prison Web Site
California Penal Code
Tenth Tri-Annual report to U. S. Federal Court, January 15, 2009
2007-2008 Fresno County Grand Jury Report

RESPONSES

A. James A. Yates, Warden, Pleasant Valley State
Prison

R401 through R403

B. Matthew L. Cate, Secretary, California Department of
Corrections and Rehabilitation

R401 through R403

Not received by publication date

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DIVISION OF ADULT INSTITUTIONS
PLEASANT VALLEY STATE PRISON
P.O. Box 8500
Coalinga, CA 93210



May 21, 2009

The Honorable M. Bruce Smith
Judge of the Superior Court
Fresno County Superior Court
1100 Van Ness Avenue
Fresno, California 93724-0002

Dear Judge Smith:

**RESPONSE TO FRESNO COUNTY GRAND JURY COMMITTEE REPORT
PLEASANT VALLEY STATE PRISON 2008-2009, FINAL REPORT #4**

The following information is submitted in response to the Fresno County Grand Jury's 2008-2009 Report #4 regarding Pleasant Valley State Prison (PVSP).

FINDINGS

F401. The State has not implemented a secure wing for inmates at Coalinga Regional Medical Center.

F401. The respondent AGREES. The Office of the Receiver is still evaluating this option.

F402. Valley Fever continues to be an ongoing threat to inmates and staff.

F402. The respondent AGREES. As stated, the California Department of Corrections and Rehabilitation (CDCR) has taken every reasonable measure to minimize the risk of inmates and staff contracting Valley Fever. This disease is indigenous to the central valley and poses a threat to every citizen in central California, including the staff and inmates of PVSP. We believe that CDCR's proactive approach to this public health menace has heightened awareness and greatly improved the health care of staff, inmates, and the local community. For example, any inmate who presents any symptoms of Valley Fever is immediately tested by PVSP medical staff. CDCR is continuously and actively seeking new ways to minimize the threat of Valley Fever.

F403. At the PVSP, the Federal Receivership has converted medical records to an electronic format.

F403. The respondent DISAGREES. The Grand Jury indicates the Office of the Receiver produced a comprehensive report detailing schedules for completion and estimated costs concerning medical care, and treatment for inmates. However, at PVSP, paper files have not yet been converted to electronic files.

F404. Doctors do not have adequate office space.

F404. The respondent AGREES. The Office of the Receiver is aware of this issue and is evaluating options to address it.

RECOMMENDATIONS

R401. That the PVSP continue to work with the community to establish a secure wing for inmates at the Coalinga Regional Medical Center. (F401)

R401. The recommendation has not been implemented. PVSP welcomes the idea; however, the health care system for the CDCR is currently under the jurisdiction of a court appointed Receiver. The Office of the Receiver is evaluating many options for the local delivery of care that will ensure proper delivery of health care in a safe and efficient manner. The current approach represents a comprehensive long-term solution that provides for sustainable appropriate care. In the interim, the Office of the Receiver is evaluating plans for acute and long-term care in the local communities of the Central Valley.

R402. Look for new ways to minimize the threat of Valley Fever. (F402)

R402. This recommendation has been implemented. Education efforts have proven to be helpful for both staff and inmates, and CDCR continues to work with scholars in the academic field to research this disease. Appropriate precautions are observed to minimize the risk of inmates deemed to have compromised immune systems, by transferring them to alternate prisons, as determined by medical professionals. Additionally, the CDCR Office of Risk Management is aware of this long standing county and statewide health concern. We will continue to monitor county and State efforts to find new treatment and prevention resources.

R403. That the PVSP provide adequate office space for doctors. (F404)

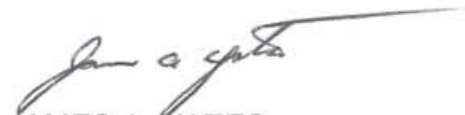
R403. The recommendation has not yet been implemented. The Office of the Receiver is currently evaluating options that provide for adequate clinical and office space as part of the overall construction and remodeling plan.

The Grand Jury notes they were received with hospitality by the PVSP, and the Prison Subcommittee interviewed the Warden and various staff who provided background information and answered questions openly. These are very common statements made by everyone who visits PVSP, to include the professionalism displayed by institution staff. We continue to strive to achieve the highest level of communication and take great pride in our employees and the work we do for the public. PVSP continues to provide public safety in the most efficient and effective manner possible.

I would like to take this opportunity to acknowledge and thank the Grand Jury for their time, interest, and recommendations. State prisons are extremely complex operations and I believe a tremendous effort has been put forth to understand the complexities and to assist us in every way possible.

If you have any questions or require additional information, please contact me directly, at (559) 935-4950, or my Administrative Assistant, Lieutenant Aaron Shimmin, at (559) 935-4972.

Sincerely,



JAMES A. YATES
Warden

cc: J. Clark Kelso, Federal Receiver
Matthew L. Cate, Secretary, California Department of Corrections and Rehabilitation
Lee Seale, Deputy Chief of Staff, California Department of Corrections and Rehabilitation
William J. Sullivan, Associate Director, General Population Levels III/IV, Division of Adult Institutions
Marilyn Watts, Foreman, 2008-2009/Fresno County Grand Jury
Aaron Shimmin, Administrative Assistant, Pleasant Valley State Prison

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REPORT #5

CITY OF SANGER

FILED

MAY 27 2009

FRESNO COUNTY SUPERIOR COURT
By _____ DEPUTY

**2008-2009
FRESNO COUNTY GRAND JURY**



**FINAL REPORT
#5**

**Fresno County
2008-2009 Grand Jury
Report #5**

City of Sanger

INTRODUCTION

In response to citizens' complaint, the Fresno County Grand Jury has investigated the management, operations, and financial affairs of the City of Sanger. The principle allegations of their complaint were misconduct by city council members, violations of the Ralph M. Brown Act, misconduct by city management employees, conflict of interest by council members, gifts to employees and council members from developers, favoritism toward certain developers and a council member, and a general lack of leadership on the part of those responsible.

During the investigation, the Fresno County Grand Jury interviewed over twenty-five witnesses and reviewed published news articles. Witness statements corroborated the majority of the allegations and, in many instances, actually increased the concerns related to the financial circumstances facing the City of Sanger.

Recently, two new city council members were elected, the city manager resigned, and officials attempted to resolve some of the problems noted. However, many of the problems continue and remain to be addressed.

BACKGROUND

ADMINISTRATION OF THE CITY

The city council is comprised of five elected members, one of whom is selected as mayor by a vote of the council. Sanger is administered under the city manager form of government. The city manager directs day-to-day operations of city business and prepares the budget. The city council develops policy and approves the budget. The council, operating as a body, considers and votes on formally proposed matters and issues their findings. In recent years, there have been questions asked by local citizens about who was actually managing the city since it seemed apparent from various events that different officials or department managers were actually in charge.

FINANCIAL AFFAIRS

Standard accounting practices require that the financial business of the city be handled by an administrative services director under the direction of the city manager. In actuality, the investigation indicated that the financial affairs are being jointly supervised

by the Director of Public Works and the Administrative Services Director who work together on a daily basis to manage the finances.

Capporecci and Larsen, a CPA firm located in San Diego, has conducted the annual audit for the past twelve years. The city has not yet received the FY 2007-2008 audit which was due several months ago. Consequently, the council found it necessary to hire Bryant L. Jolley, a Firebaugh CPA, to conduct a limited audit to establish the financial condition of the city. This audit declared that the city must immediately cease deficit spending and rebuild reserves.

Testimony revealed that monies from city departmental accounts had been moved to other city accounts, creating the impression that the city finances were balanced. Upon receiving internal complaints, the financial director, after several days of review, located the funds and returned them to the appropriate accounts. Most of the improperly placed money amounted to thousands of dollars. In one instance, as much as \$500,000 was inappropriately moved from one account to another.

ISSUES OF CONCERN

Testimony and documentation showed that some of the city council members are unaware of the limits of their authority. Accordingly, individual council members are circumventing the chain of command, compromising the authority of department managers.

MICROMANAGEMENT

Several employees testified that the city manager allowed council members to operate the city for him. The council gave employees substantial salary increases during a period when the city manager was absent because of illness. Evidence showed that council members lacked management skills to make those daily decisions.

The grand jury uncovered that some council members routinely approach city employees to issue directives and call them on the phone at work and at their homes. Documentation revealed that one council member made almost 7,000 phone calls to city employees during an eighteen-month period even while working at his regular job.

MISMANAGEMENT

Testimony indicated that some council members do not have the background or experience in finance and management to evaluate matters brought before them. The council is faced with two issues. One issue is that they receive and understand the advice given to them by executive employees, and that they should insist upon adequate support of that advice. Secondly, in some cases, city executive personnel have presented misleading or inaccurate financial reports to council members which should have been questioned.

Much of the concern generated over the past few years has been centered on the city manager's inability to direct city affairs adequately and appropriately. This has created a major problem with members of the city council and department heads having to fill the void in management.

In the early 1990's, the City of Sanger received approximately \$15,000,000 in a settlement of litigation filed against Dow Chemical, Occidental Petroleum, Occidental Chemical Corporation, and Shell Oil Company arising from DBCP (Dibromochloropropane) contamination of local ground water. After attorney fees, approximately \$12,000,000 remained; and about \$2,500,000 was immediately used to improve local water quality. At the time, it was understood that the remaining principal of approximately \$9,500,000 would remain intact, only to be used for water related issues. In 1996, an ordinance was passed by the city council stipulating that the interest from the settlement monies was to be placed in the general fund to be used as needed.

The grand jury found a variety of legal opinions and concluded that there is no clear cut prohibition to spend the settlement money in a particular way other than for the remediation of the identified wells. Those wells were completed several years ago.

The settlement has been used as loans for various city projects, resulting in limited funds for future water needs. Testimony described the use of those funds as investments that are earning interest. In spite of annual loan repayments, money is flowing out faster than it is flowing into the fund. The grand jury found that the city did not know the exact amount of money in the fund. Witness statements indicated that the amount remaining in the DBCP fund ranged from \$0 – \$5,000,000. Testimony indicated that the high estimate of \$5,000,000 was based on the original loan and the purchase price of assets used in city operations. However, many of those assets have depreciated substantially, thus causing further questioning as to the value of the fund. They finally admitted there was only approximately \$600,000 cash left in the DBCP fund. The grand jury found that the city is using \$300,000 to \$350,000 per month from the DBCP fund to supplement payroll.

Deficit expenditures have depleted city reserves, as well as impact and impound funds. A substantial proportion of the city's deficit results from operating an ambulance service. Additional shortfalls are from the loss of state contributions to the Public Employees' Retirement System and spending almost \$2,000,000 to remodel the Police Activity League Building. Moreover, employee salaries were raised to substantial levels unsupportable by the tax base and the present economic climate. When expenditures were proposed, city staff advised the council that funds were available to meet the new obligations. Currently, adjustments in pay, possible lay-offs of city staff, and consolidation of departments are being considered.

CONFLICT OF INTEREST

The community began to question certain business relationships between a developer and a city official. Published reports and independent testimony revealed that the city manager received a reduced price on a home in a development being considered for approval by the city council. Furthermore, the grand jury learned that a council member informed the media that he was representing the city council on behalf of the city manager. He stated that the city manager did not know his wife purchased the house, thus there was no conflict of interest. Also, he failed to mention that the city council was in the process of approving the project for construction and that the city manager's approval of that project would impact the purchase of the home.

In another incident, additional testimony was received concerning the development of several acres of land. The owner of the property asked a council member if he was interested in purchasing the house that was on the acreage. The land was in the process of being sold to a developer to be used for low to moderate income housing. The developer, property owner, and council member were all friends.

The developer asked to borrow \$500,000 from the city's redevelopment fund to purchase the property. The council member did not declare his interest, nor did he recuse himself from the vote to approve the loan. The loan was approved, the property owner sold the acreage to the developer and moved the house to a location in Sanger, and the council member purchased the house. He refurbished the house and opened two businesses in it. There were complaints from the community that the area was not zoned for business. He petitioned the city, and the zoning was changed. The developer has been unable to build the intended low to moderate income housing, and the project has gone into litigation.

It has been a common practice for developers to meet with council members and city staff for lunch. Many of those meetings were held prior to the city council voting to approve the developers' projects. Those council members failed to declare the lunches prior to voting to approve the projects, even though they received legal advice directing them to do so.

Testimony revealed that a developer gave gift baskets and leather jackets to council members and the city manager. In addition, some council members received cash gifts from the city manager. During the grand jury's investigation it was found that most of the council members had received some gifts. Upon examination of Form 700, Statement of Economic Interest, it was noted that most of the council members did not declare those gifts.

These conflicts of interest erode the public trust and create the impression that council members are working in the best interests of themselves and developers rather than the City of Sanger and its citizens.

MALFEASANCE

City Manager

Testimony and documents have revealed that the city manager received special financial consideration when he purchased a home from a local developer below the market value. That price was not made available to the general public. Witnesses reported that a survey of comparable homes, selling in the same subdivision, sold for tens of thousands more than the city manager paid. Further testimony revealed that while the project was still in the planning stage the city manager negotiated the price of his home before the project was approved by the city council.

The city council was asked by a citizens' group to conduct an independent investigation; however, the council failed to resolve the problem. The discounted price is a violation of regulations set by the state Fair Political Practices Commission prohibiting city managers and other public officials from taking gifts or discounts worth more than \$360. The city manager failed to report that his wife worked for the developer who sold the home to them and reported it only after it was publicly revealed.

The city manager was in a position to allow the developer special considerations. Witnesses testified they noticed the developer was receiving favoritism on his projects. Testimony revealed that the city manager's wife often called for special considerations for the developer's projects. The developer was allowed to begin building homes before the projects were approved, cut corners on building permits, store building materials on public streets, and continue construction without infrastructure. Some city employees confronted the city manager and complained about apparent favoritism shown to that developer. The city manager brushed aside the complaints and used his position to silence them. The city council was aware of the problems, did not resolve them, but extended the city manager's contract.

The city council became concerned after learning that the wife of the city manager was a partner with that same developer in a limited liability corporation that was acquiring ownership of homes under construction. During the construction of the same housing project, that developer connected water and sewer lines from his private home to a nearby clubhouse and to city utility services. Some years later, those connections were discovered after an anonymous phone call to the city. Testimony revealed that more than \$20,000 is owed to the city for water and sewer connections and service fees. The city manager was placed on leave while an investigation was conducted. The council determined that the city manager was in the process of obtaining a divorce, and he said he was unaware of the partnership. He further stated that whatever his wife did was her own business. He received a written warning from the council not to have anything to do with the developer; however, he continued to contact him and was placed on administrative leave again. The city council took no further action, and he was later returned to work.

City Council

The grand jury received testimony concerning a council member who attempted to use the position of his office to seek personal favors from the police department. An arrest had been made for drunk driving and public intoxication involving the member's family, and the council member requested that the police department drop the charges. They were not dropped. In another incident, the police were called to that same council member's relative's house because of a loud party. Testimony revealed that the council member called the police department and asked staff members to tell the officers to leave.

On another occasion, two council members and the city manager met with a police department official and told him that the department was writing too many tickets and towing too many vehicles. They made a threat to the police official and also told him to "back off." The police official responded by saying that the department would continue to do its job.

For the September 16, 2008 Mexican Independence Day Festival held at Sanger Park, a member of the city council and the city manager borrowed the Chamber of Commerce's liquor license permit so they could sell beer. Testimony revealed that the event generated approximately \$31,000 including some commercial donations. The city council member was advised by the police department that it was illegal for the city to sell alcohol. A complaint was made to the State of California Alcohol Beverage Control (ABC) concerning several alcohol violations. These violations consisted of children in the beer garden, identification violations, a security guard drinking on the job in uniform, and people operating the beer concession while drinking. Other violations included the transportation of alcohol in a city vehicle to the city yard. ABC threatened to cancel the Chamber of Commerce's liquor license because of the violations at this event. As a result, the Chamber will no longer lend their license permit to the City of Sanger.

FIDUCIARY NEGLIGENCE

The present downturn in the economy has greatly magnified the fiscal shortcomings faced by the City of Sanger. Problems will continue to escalate for the foreseeable future. In 2008, the newly elected city council appointed an Ad Hoc Finance Advisory Committee in order to determine the city's financial status. A report issued by the committee revealed that the previous city council knowingly adopted a budget that resulted in a \$2,365,000 deficit in FY 2006-2007. The city actually spent \$2,112,000 more than it received.

Testimony revealed that some council members did not have an understanding of the city's financial condition and have complained that the financial reporting of the city is presented in a confusing and misleading manner. At this time, the city council has spent all of the funds in the city's reserve account, development impact funds, and vehicle impound funds.

Upon the advice of the city manager, the city council accepted a letter of credit for \$1,300,000 from Estate Financial Inc., an investment company, which guaranteed the completion of infrastructure for the Villa Mira development project in Sanger. The city council did not adequately investigate the financial viability and stability of the company. The project was only partially completed when construction was halted. The city made a demand on the letter of credit from Estate Financial Inc., which has since defaulted and refused to honor the request. Litigation is pending.

CONCLUSION

Upon receipt of a complaint, the Fresno County Grand Jury investigated allegations of misconduct by city council members, violations of the Ralph M. Brown Act, misconduct by city management employees, conflict of interest by council members, gifts to employees and council members from developers, favoritism toward certain developers and a council member, and a general lack of leadership on the part of those responsible. The grand jury did not find any violations of the Ralph M. Brown Act by the city council.

Many of the problems that existed with the city manager could have been avoided if the city council had completed a thorough background investigation before hiring him. After the city manager was hired, he called the council into special session to inform them about his gambling background, arrests, and convictions, including forgery and fraudulent use of credit cards. Regardless, they chose to retain him. The Fresno County Grand Jury found several instances of conflicts of interest in development projects. For example, the construction permit process ran smoothly until the city manager got involved, bypassed the process, and extended favors to certain developers.

Some actions by city officials were a conflict of interest, inappropriate, and illegal. Therefore, the credibility and integrity of certain council members and the city manager are in question.

The grand jury also found many instances of fiduciary negligence. City funds are nearly depleted. Currently, the council is considering adjustments in pay, possible lay-offs of city staff, and consolidation of departments.

The grand jury found merit in the complaint brought by the citizens of Sanger. It is hoped that the newly comprised city council, the recent resignation of the city manager, and adjustments in management will improve conditions and address some of their past problems.

FINDINGS

- F501 Several council members routinely contact city employees to issue directives, calling employees at work and at home.
- F502 Mismanagement by city officials has depleted impound and impact funds, reserves, and most of the DBCP fund, resulting in deficit spending of several million dollars.
- F503 The city manager, whose wife was a partner with the developer, purchased a home at below market price, which was not made available to the general public.
- F504 Council members who had inappropriate business relationships with developers did not declare these contacts and did not recuse themselves while voting to approve developer projects.
- F505 Some council members failed to declare gifts from developers as required by law.
- F506 The city council and city manager gave some developers special consideration.
- F507 The council was aware of the city manager's conduct but failed to take appropriate action.
- F508 A council member used his position in an attempt to persuade the police department to drop criminal charges for a family member.
- F509 A council member and the city manager borrowed the Chamber of Commerce's liquor license permit for the City of Sanger, even after being advised by police officials that it was illegal.
- F510 During the 2008 Mexican Independence Day Festival, a council member allowed multiple violations of California Alcohol Beverage Control laws.
- F511 Many problems occurred during the tenure of three current council members who failed to take decisive action during a financial crisis, failed to address the mismanagement and misconduct of the city manager, and failed to deal properly with developers.
- F512 Some council members do not have an understanding of the city's financial condition.
- F513 City executive management has not adequately communicated budget and financial matters in an understandable manner to the council.

- F514 The city council and city manager failed to establish the validity of a letter of credit to ensure development infrastructure completion in the event of default by the developer.
- F515 The city manager interfered with the building permit process by approving project phases before they were completed.
- F516 The city council failed to conduct a thorough background investigation and showed poor judgment in hiring the city manager.
- F517 The city council and executive staff displayed a general lack of leadership and integrity.

RECOMMENDATIONS

The 2008-09 Fresno County Grand Jury recommends that the following be implemented.

- R501 That the Sanger City Council follows the appropriate chain of command when dealing with city employees. (F501, F517)
- R502 That the Sanger City Council follows sound fiscal responsibility when administering city funds. (F502, F511, F512, F513, F514, F517)
- R503 That the Sanger City Council enforces rules and regulations concerning misconduct by a city manager. (F503, F506, F507, F509, F511, F515, F517)
- R504 That the Sanger City Council ceases and desists inappropriate relationships with developers. (F504, F505, F511, F517)
- R505 That the Sanger City Council observes all rules, regulations, and laws in their business and conduct. (F505, F508, F509, F510, F517)
- R506 That the Sanger City Council conducts a thorough background investigation before hiring a new city manager. (F516, F517)
- R507 That the Sanger City Council and executive staff exercise accepted management principles of leadership in dealing with day-to-day operations. (F501, F502, F504, F506, F507, F511, F512, F513, F514, F515, F516, F517)
- R508 That the City of Sanger authorizes a complete, thorough, and independent financial audit from a new accounting firm. (F502, F511)

R509 That the Sanger City Council members and staff receive annual training in ethics and avoidance of conflicts of interest. (F503, F504, F505, F506, F507, F508, F509, F510)

REQUEST FOR RESPONDENTS

Pursuant to Penal Code 933.05, the Fresno County Grand Jury requests responses to each of the specific findings and recommendations. It is required that responses from elected officials are due within sixty days of the receipt of this report and ninety days for all others.

RESPONDENTS

City Council, Sanger, California (F501-F517, R501-R509)

SOURCES AND REFERENCES

Audio recordings of council meetings
City of Sanger official web site
City of Sanger personnel records
Copies of interoffice memos
Copies of e-mails
Deeds and documents of home sales
Internet research
Newspaper articles
Sanger City Municipal Code
Statement of Economic Interest Form 700
Video recordings of council meetings
Witness interviews and recorded sworn statements
 City employees
 City of Sanger private citizens
 Council members
 Department of Justice Bureau of Gambling Control investigators
 Former City of Sanger employees
 Fresno County District Attorney
 Sanger fire department personnel
 Sanger police officers
 Various attorneys

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RESPONSES

A. Sanger Mayor's Office
R501 through R509

B. Sanger City Council
R501 through R509

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City of SANGER, California
"A Community of Caring"

1700 Seventh Street
Sanger, California 93657
(559) 876-6300 x 1300
FAX (559) 875-8956

July 23, 2009

M. Bruce Smith, Presiding Judge
Fresno Superior Court
1100 Van Ness Avenue
Fresno, California 93724

Marilyn Watts, Foreman
2008-2009 Fresno County Grand Jury
1100 Van Ness Avenue, Room 102
Fresno, California 93724

SUBJECT: 2008-2009 Grand Jury Report – City of Sanger

As Mayor of the City of Sanger, I am hereby commenting on the findings and recommendations set forth in the 2008-2009 Fresno County Grand Jury Final Report #5.

Introductory Statement

On behalf of the City of Sanger, I would like to express my gratitude to the Fresno County Grand Jury for its work relative to a citizens' complaint regarding the management, operations and financial affairs of the City of Sanger. However unflattering the report may be, it serves as a mirror that can be used to take corrective actions towards making the good city of Sanger a greater city.

Comment Regarding Findings

As members of the Grand Jury may be aware, the findings in the Grand Jury Report give reference to events that took place prior to my being elected to the Sanger City Council or being selected as Mayor of the City of Sanger. Since I have no personal knowledge and ability to attest to facts related to the findings, I will not comment in terms of agreeing or disagreeing with each finding.

Comment Regarding Recommendations

I believe that every recommendation, if implemented as recommended by the Grand Jury, will strengthen the manner in which we govern the City of Sanger. My intent is to pursue the adoption of policy statements that will address the conduct and behavior of Sanger city officials to ensure effective city operations.

Additional Comments

Given the Grand Jury findings regarding conflicts of interest, I agree with the Grand Jury statement that "these conflicts of interest erode the public trust and create the impression that council members are working in the best interest of themselves and developers rather than the City of Sanger and its citizens."

July 23, 2009

Page 2

M. Bruce Smith, Presiding Judge

Marilyn Watts, Foreman

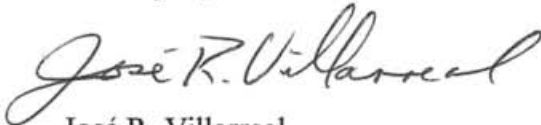
I would like to express a concern about the Grand Jury's characterization of some actions by city officials as *'illegal'* and its lack of clarity as to the identity of the city officials involved and the specificity as to the nature of the *'illegal'* action. Within the Grand Jury's role as a watchdog entity, the Grand Jury has the authority, even an obligation, to provide the necessary clarity to ensure due process and accountability.

In terms of accountability, any reference to an *'illegal'* action by a city official implies that the city official will be or should be held accountable. It is regretful that this Grand Jury did not go beyond the characterization of some actions by city officials as *'illegal.'* If city officials are involved in unlawful activity, those officials should be held accountable. Residents of the City of Sanger deserve no less. Any *'illegal'* action should have been referred to the proper law enforcement agency.

Closing Comment

In closing, it is clear that the Grand Jury dedicated substantial time and effort into the investigation that led to the development of the final report. For this I would like to thank the Grand Jury. We can only hope that we, as residents of the City of Sanger, can put forth an equal amount of time and effort to implement the recommendations of the Grand Jury.

Thank you,



José R. Villarreal
Mayor

c Sanger City Councilmembers
Sanger City Attorney
Fresno County Board of Supervisors



City of SANGER, California

"A Community of Caring"

1700 Seventh Street
Sanger, California 93657
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September 1, 2009

M. Bruce Smith, Presiding Judge
Fresno Superior Court
1100 Van Ness Avenue
Fresno, California 93724

Re: 2008-2009 Grand Jury Report – City of Sanger

Dear Judge Smith:

Following are the comments of the Sanger City Council to the Grand Jury Report #5 2008-2009.

General Comments

While the findings and recommendations contained in the Grand Jury's report identify serious matters requiring the ongoing attention of the City Council, the Grand Jury's vagueness and ambiguity in failing to identify specific names in many instances make an accurate response very difficult. Some of the findings appear to address issues identified and addressed by the City Council well before this Grand Jury convened. The committee members suggest that the City Council ask that future Grand Jury reports contain more specificity with regard to allegations against individual City Council members and department heads. In addition, since the Grand Jury Report was addressed and delivered to each City Council member, each member has the right to draft his or her own response should you feel such individual response is warranted.

FINDINGS

F501 Several council members routinely contact city employees to issue directives, calling employees at work and at home.

Response

Agree.

F502 Mismanagement by city officials has depleted impound and impact funds, reserves, and most of the DBCP fund, resulting in deficit spending of several million dollars.

Response

Disagree as to mismanagement of the DBCP fund. However, poor judgment has been used in ignoring Ordinance No. 959, which restricts the use of DBCP funds. The City Council should adopt a firm policy with regard to following the requirements of Ordinance No. 959, or the City Council should change the Ordinance.

Agree that management staff mismanaged various aspects of the City's finances, and that the City Council used poor judgment in allowing deficit spending to continue for too long.

F503 The city manager, whose wife was a partner with the developer, purchased a home at below market price, which was not made available to the general public.

Response

Agree. The City Council directed an investigation by the City Attorney at the time these allegations became known. The results of the investigation were turned over the Fresno office of the U. S. Attorney on or about July 23, 2007. To date, no response has been received from the U. S. Attorney.

F504 Council members who had inappropriate business relationships with developers did not declare these contacts and did not recuse themselves while voting to approve developer projects.

Response

Agree. However, the Grand Jury report provides insufficient documentation upon which the City Council can provide an adequate response.

F505 Some council members failed to declare gifts from developers as required by law.

Response

Agree. However, it is unclear as to who accepted gifts and/or how or whether such gifts were disposed of or retained. The City Council should adopt a strong written policy setting out clear guidelines on this issue.

F506 The city council and city manager gave some developers special consideration.

Response

Agree as to City Manager. We also agree that inappropriate contacts with developers create the impression that individual City Council members may be biased in favor of certain developers, and that such contacts should be avoided.

F507 The council was aware of the city manager's conduct but failed to take appropriate action.

Response

Agree that the City Council became aware of the City Manager's conduct. The City Council directed the City Attorney to investigate these matters, and the documents and information developed were turned over to the Fresno office of the U.S. Attorney on or about July 23, 2007. Subsequently, the City Manager received a two-week suspension.

F508 A council member used his position in an attempt to persuade the police department to drop criminal charges for a family member.

Response

Agree. The described conduct appears to be a breach of the City's ethics code as set out in Ordinance No. 1083 adopted by the City Council in 2006. The City Council should adopt a strong written policy setting out clear guidelines on this issue, and amend Ordinance No. 1083 as needed. A copy of Ordinance 1083 is attached with this response.

F509 A council member and the city manager borrowed the Chamber of Commerce's liquor license permit for the City of Sanger, even after being advised by police officials that it was illegal.

Response

Agree. The City Council directed an investigation, and ultimately adopted a written policy banning City sponsorship of events involving the sale of alcohol. A copy of Resolution No. 4114 is attached with this response.

F510 During the 2008 Mexican Independence Day Festival, a council member allowed multiple violations of California Alcohol Beverage Control laws.

Response

Agree. The City Council directed an investigation, and ultimately adopted a written policy banning City sponsorship of events involving the sale of alcohol. A copy of Resolution No. 4114 is attached with this response.

F511 Many problems occurred during the tenure of three current council members who failed to take decisive action during a financial crisis, failed to address the mismanagement and misconduct of the city manager, and failed to deal properly with developers.

Response

Agree. The City Council has adopted a policy requiring quarterly financial reports. With regard to the findings about the City Manager, refer to the City Council's responses to F503, F506, F507, F509 and F515. With regard to dealing with developers, refer to the City Council's responses to F504, F505, F506 and F515.

F512 Some council members do not have an understanding of the city's financial condition.

Response

Agree. The City Council should avail itself of training opportunities through the California League of Cities.

F513 City executive management has not adequately communicated budget and financial matters in an understandable manner to the council.

Response

Agree. The City Council will direct executive management to communicate budgets and financial data in a simpler and more understandable manner.

F514 The city council and city manager failed to establish the validity of a letter of credit to ensure development infrastructure completion in the event of default by the developer.

Response

Disagree. There were many factors beyond the control of the City Manager and City Council that led to the failure of the issuer of the cited letter of credit to honor the City Council's demand for payment under the terms of the letter of credit.

F515 The city manager interfered with the building permit process by approving project phases before they were completed.

Response

Agree. The City Manager was disciplined at the time.

F516 The city council failed to conduct a thorough background investigation and showed poor judgment in hiring the city manager.

Response

Agree. It appears from the City's records, that the decision to hire the former City manager was made, and his contract was signed by the then Mayor, prior to the date the background investigation was completed.

F517 The city council and executive staff displayed a general lack of leadership and integrity.

Response

Agree.

RECOMMENDATIONS

R501 That the Sanger City Council follows the appropriate chain of command when dealing with city employees. (F501, F517)

Response

The City Council will adopt a written policy within two months with regard to following the chain of command.

R502 That the Sanger City Council follows sound fiscal responsibility when administering city funds. (F502, F511, F512, F513, F514, F517)

Response

The City Council will encourage its members to attend League of Cities training on fiscal matters. In addition, the City Council will adopt a policy within two months requiring quarterly financial reports. The City Council will direct executive management to communicate budgets and financial data in a simpler and more understandable manner.

R503 That the Sanger City Council enforces rules and regulations concerning misconduct by a city manager. (F503, F506, F507, F509, F511, F515, F517)

Response

The City Council believes it has followed the appropriate personnel and investigative policies in dealing with the prior City Manager. However, in recruiting and hiring a new City Manager, the City Council will ensure that all candidates understand the importance of adhering to strict standards for ethical conduct.

R504 That the Sanger City Council ceases and desists inappropriate relationships with developers. (F504, F505, F511, F517)

Response

The City Council will adopt a strong written policy within two months setting out clear guidelines on this issue.

R505 That the Sanger City Council observes all rules, regulations, and laws in their business and conduct. (F505, F508, F509, F510, F517)

Response

The City Council will adopt a strong written policy within two months setting out clear guidelines on each of the identified issues, including an expansion of Resolution No. 4114 to make it clear that alcoholic beverages should not be stored on City property or transported by City staff.

R506 That the Sanger City Council conducts a thorough background investigation before hiring a city manager. (F516, F517)

Response

It is the policy of the City Council that the current City Manager recruitment include a thorough background investigation on all final candidates.

R507 That the Sanger City Council and executive staff exercise accepted management principles of leadership in dealing with day-to-day operations. (F501, F502, F504, F506, F507, F511, F512, F513, F514, F515, F516, F517)

Response

The City Council is in the process of recruiting a new City manager, is recruiting a new auditor, and will insist on additional management training for all executive staff; all to be completed within six months. In addition, the City Council will adopt a policy within two months requiring quarterly financial reports. The City Council will direct executive management to communicate budgets and financial data in a simpler and more understandable manner.

R508 That the City of Sanger authorizes a complete, thorough, and independent financial audit from a new accounting firm. (F502, F511)

Response

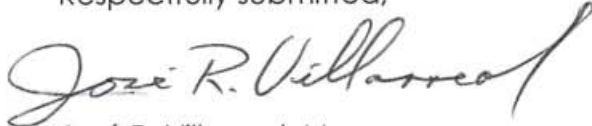
The City Council has already advised its current auditors of the City Council's intent to change firms. A new auditor is being recruited for the FY 2008/2009 audit.

R509 That the Sanger City Council members and staff receive annual training in ethics and avoidance of conflicts of interest. (F503, F504, F505, F506, F507, F508, F509, F510)

Response

On September 7, 2006, the City Council adopted Ordinance No. 1083, which sets out strict guidelines for ethical conduct on the part of Council members, department heads, commissioners and employees. The City Council, department heads and all commissioners receive State required ethics training upon election, hiring or appointment. In addition, all are required to take refresher courses every two years. Since 2006, the City has held several such training sessions, which have been well attended by City Council members, department heads and commissioners.

Respectfully submitted,

A handwritten signature in cursive script that reads "José R. Villarreal". The signature is written in dark ink and is positioned above the printed name and title.

José R. Villarreal, Mayor
Sanger City Council

REPORT #6

PARLIER UNIFIED SCHOOL DISTRICT

FILED

JUN - 3 2009

FRESNO COUNTY SUPERIOR COURT

By _____ DEPUTY

**2008-2009
FRESNO COUNTY GRAND JURY**



FINAL REPORT

#6

Fresno County
2008 – 2009 Grand Jury
Report #6

Parlier Unified School District

"All else pales to the joy of watching and helping children blossom." ~Anonymous

INTRODUCTION

Parlier Unified School District (District) is located in and around the City of Parlier and is twenty miles southeast of Fresno. The District is one of thirty-four in Fresno County. It consists of four elementary schools, one junior high school, and one high school. The District also sponsors one charter school located in Fresno. The Parlier Unified School Board (Board) is composed of five elected members and meets on the second and fourth Tuesday of each month. The Superintendent oversees the activities and duties of 300 employees. He makes recommendations to the Board for their approval. The population of Parlier is approximately 13,000, and the District enrollment is approximately 3,000 students. The District is rural, and the population is predominately Hispanic. Regular meetings of the Board begin at 6:00 p.m. in closed session, and open sessions begin at 7:00 p.m. All sessions are held at the Parlier Unified School District Educational Center. Exceptions are made depending on the anticipated attendance. A nearby school auditorium is used if extra seating capacity is needed.

BACKGROUND

The Fresno County Grand Jury received a letter asking for assistance regarding the actions of one member of the Parlier Unified School Board. The complaint stated that the board member publicly disclosed and commented on actions the Board had taken in closed session. The Ralph M. Brown Act (Brown Act), Government Code 54950, states that all meetings of a public body must be conducted in an open and transparent manner. Closed sessions are allowed under certain circumstances, such as for legal, personnel, or contractual matters requiring confidentiality. Section 54963 of the Brown Act provides remedies for public disclosure of confidential information presented in a closed session.

ISSUES OF CONCERN

The grand jury interviewed witnesses who were present at the Board meetings in question. The grand jury also reviewed minutes of several Board meetings and corroborated the printed minutes by reviewing compact discs of the recorded meetings.

Witness testimony indicated that on more than one occasion the board member in question publicly discussed matters that were covered in closed session.

Violations of the Brown Act

One incident involved employees and the status of their employment. After the Board made a decision in closed session regarding these employees, the board member in question started to discuss the matter in open session. The Board Chair told the board member to stop discussing the matter. The board member finally stopped discussing the matter after several admonishments from the chair.

Another alleged violation of the Brown Act involved an employee grievance acted on in closed session. In open session, a union representative in the audience wanted to speak about the issue. Because the item was not on the agenda, the item could not be discussed. In addition, the issue was under review by legal counsel. Regardless, the representative voiced concerns about the Board's decision. The board member in question supported the representative's comments and disclosed his reasons for his closed session vote. This incident ended with the police being called to restore order to the meeting.

School Board Actions

In an attempt to correct violations of the Brown Act, the Board on August 26, 2008, issued an oral admonition in open session to make all board members aware of the required confidentiality of closed sessions. It was approved on a vote of three to two.

Later, a special session was called on December 16, 2008 for the purpose of approving a written resolution to censure publicly the board member in question for repeated unauthorized disclosure of confidential closed session information. The Resolution No. 15-08/09 was adopted by all three board members present.

CONCLUSION

The grand jury reviewed the Brown Act to identify the requirements of closed sessions and how that applies to school boards. From the observations noted above, the grand jury concluded that, in fact, the board member in question did violate the intent of the Brown Act and found merit in the complaint.

FINDINGS

F601 Section 54963 of the Brown Act provides specific remedies for revealing confidential information presented in a closed session.

- F602 The Parlier Unified School Board members were made aware of the provisions of the Brown Act.
- F603 The board member in question violated the closed session confidentiality requirements of the Brown Act.
- F604 The Board issued a resolution publicly censoring the board member in question for repeated violations of the Brown Act.

RECOMMENDATIONS

The 2008-2009 Fresno County Grand Jury recommends that the following be implemented.

- R601 That the Parlier Unified School Board refers future violations of the Ralph M. Brown Act to the grand jury for constructive assistance. (F601)
- R602 That the Parlier Unified School Board seeks injunctive relief through the court system. (F601)

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Fresno County Grand Jury requests responses to each of the recommendations and findings. Please be advised that responses from elected officials are due within 60 days of the release of this report.

RESPONDENT

The Board of Education, Parlier Unified School District (F601-F604, R601 and R602)

SOURCES AND REFERENCES

Compact disc recordings of Board meetings
Fresno County Counsel
Minutes of Board meetings
Witness interviews and recorded sworn statements
Parlier Unified School District staff
School Board Members and staff

RESPONSES

A. Parlier Unified School District Board of Education
R601 and R602

B. Enrique Maldonado, Parlier Unified School District
Board of Education Member
R601 and R602

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Focus on Student Achievement

August 25, 2009

The Honorable Bruce Smith
Presiding Judge
Fresno County Superior Court
1100 Van Ness Avenue
Central Division
Fresno, CA 93721

Re: Grand Jury Final Report No. 6 (2008-2009); response by Parlier Unified School District pursuant to Penal Code 933 and 933.05 (Watchdog Grand Jury Proceedings)

Dear Judge Smith:

The Board of Trustees ("Board") of the Parlier Unified School District ("District") has reviewed the above-referenced Fresno County Grand Jury Final Report No. 6 (2008-2009) (the "Report"). This correspondence addresses the Report in accordance with Penal Code section 933.05 as set forth below.

I
COMPLIANCE WITH THE BROWN ACT

The following is noted in the Report:

School Board Actions

"In an attempt to correct violations of the Brown Act, the [Parlier Unified School District] Board on August 26, 2008, issued an oral admonition in open session to make all board members aware of the required confidentiality of closed sessions. It was approved on a vote of three to two.

Later, a special session was called on December 16, 2008 for the purpose of approving a written resolution to censure publicly the board member in question for repeated unauthorized disclosure of confidential closed session information. The Resolution No. 15-08/09 was adopted by all three board members present."

Preparing Students for the Global Economy

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www.parlierunified.org

BOARD OF EDUCATION

Benjamin Tamez, Jr. President
Trinidad Pimentel, Vice President
Xavier J. Betancourt, Clerk
Enrique Maldonado
Mary Helen Villanueva

SUPERINTENDENT

Rick Rodriguez

II REPORT FINDINGS

The Report's findings, with the Board's comments, are as follows:

F601 Section 54963 of the Brown Act provides specific remedies for revealing confidential information presented in a closed session.

Comment: Agree.

F602 The Parlier Unified School Board members were made aware of the provisions of the Brown Act.

Comment: Agree.

F603 The board member in question violated the closed session confidentiality requirements of the Brown Act.

Comment: Agree.

F604 The Board issued a resolution publicly censoring the board member in question for repeated violations of the Brown Act.

Comment: Agree.

III REPORT RECOMMENDATIONS

The Report's recommendations, with the Board's responses, are as follows:

R601 That the Parlier Unified School Board refers future violations of the Ralph M. Brown Act to the grand jury for constructive assistance. (F601)

Response: Pursuant to Government Code 54963(c)(3), as recommended in the Report, the Board of Trustees will refer any member of its Board "who has willfully disclosed confidential information in violation of this section to the Grand Jury." Gov. Code 54963(c)(3).

R602 That the Parlier Unified School Board seeks injunctive relief through the court system. (F601)

The Honorable Bruce Smith
August 25, 2009
Page 3

Response: Injunctive relief requires compliance with applicable statutory and case law. Provided that the facts warrant injunctive relief to prohibit the threat of future violations of the Ralph M. Brown Act [Gov. Code 54950 et seq.], the Board of Trustees of the Parlier Unified School District will pursue injunctive relief as recommended in the Report. The District intends to also issue a cease and desist letter to the Board member who is the subject of the Report.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Benjamin Tamez, Jr.", with a long horizontal flourish extending to the left.

Benjamin Tamez, Jr., Board President
Parlier Unified School District

BENNETT & SHARPE, INC.

A Professional Corporation

Attorneys at Law

BARRY J. BENNETT
THOMAS M. SHARPE
ELAINE M. YAMA
HEATHER N. PHILLIPS

2444 Main Street, Suite 110
Fresno, California 93721

TELEPHONE: (559) 485-0120
FAX: (559) 485-5823

July 23, 2009

Hand-Delivered

Honorable Alan Simpson, Presiding Judge
Superior Court of the State of California
County of Fresno
2317 Tuolumne Street
Fresno, CA 93721

RE: Grand Jury Final Report #6 2008-2009
Our File No.: 2451

Dear Judge Simpson:

This office represents the interests of Enrique Maldonado, a member of the Board of Education of the Parlier Unified School District and the "unnamed" Board member in Fresno County 2008-2009 Grand Jury Report #6, which was released on June 3, 2009. Please regard this as Board Member Maldonado's response to this report, as authorized in California Penal Code § 933, which provides, in pertinent part, for comments on the final reports from a grand jury by an "elected county officer" for which the grand jury has responsibility. Consistent with the provisions of section 933, Board Member Maldonado asks that this response be filed with the clerk of the court.

For the reasons stated below, Board Member Maldonado disagrees with the finding in Report #6 of the 2008-2009 Grand Jury.

In essence, Report #6 sets forth an assertion that on two occasions a board member publicly disclosed and commented on actions taken by the Board in closed session in violation of the Ralph M. Brown Act (Brown Act). Although Report #6 does not identify the dates of the two alleged Brown Act violations, it is clear that the issues in question arose at the Board meetings on June 24 and November 18, 2008. We will address Board Member Maldonado's comments on each of those meetings and explain why that conduct was not in violation of the provisions of the Brown Act.

June 24. Among the items listed on the agenda for the Board's meeting on June 24 was item 2.8, "Public Employee Appointment/Employment" pertaining to the title of "Director,

Honorable Alan Simpson, Presiding Judge
July 23, 2009
Page Two

Maintenance/Operations & Transportation.” Consistent with the requirements of the Brown Act, after meeting in closed session the Board reported in open session the various actions taken and the votes thereon. With respect to item 2.8, the Board President reported in open session that a motion had been made to approve the employment of Joe Reyes, Sr., as Director, Maintenance/Operations & Transportation. The President further reported, in open session, the results of the roll call vote taken in closed session on this matter, indicating in that portion of his statement that Board Member Maldonado had voted not to approve the motion. Thereafter, Board Member Maldonado attempted to state, in open session, the basis for his vote not to approve the motion in question. At that point the Board President admonished Board Member Maldonado, stating that no discussion of the action would be permitted because it pertained to an action taken in closed session. Board Member Maldonado made no further comments.

Although Section 54963(a), which was made part of the Brown Act in 2002, prohibits disclosure of information acquired by virtue of being present in a closed session absent authorization of such disclosure by the legislative body of the public agency, this provision cannot be read as prohibiting any discussion of a matter merely because it was discussed in closed session. More importantly, we have been unable to locate any authority that prohibits a member of the legislative body from merely explaining the basis for a vote reported in open session as long as the explanation does not reveal the substance of the closed session discussion.

November 18. The reference in Report #6 to a second alleged violation of the Brown Act by the Board Member is more than puzzling. As noted above, Report #6 does not identify the date of the Board meeting at which this violation allegedly occurred. We believe, however, that the discussion in dispute occurred at the November 18, 2008 meeting. In any event, according to Report #6 this incident involved an employee grievance that was discussed in closed session, and subsequent efforts by a representative of the grieving employee to voice concerns about the Board’s decision regarding the grievance. It is asserted that the Board Member violated the Brown Act by supporting the comments of the employee representative and disclosing his (the Board Member’s) reasons for his vote in closed session. Thus, the Grand Jury makes reference to a vote taken in closed session and an attempt by a member of the audience (an employee representative) to discuss the action taken by the Board by virtue of the closed session vote.

Several provisions of the Brown Act come into play in connection with this matter. First, Government Code §§ 54954.2 and 54954.5 mandate that the agenda for any given meeting include a description of any matter to be discussed in closed session. Second, Government Code

Honorable Alan Simpson, Presiding Judge
July 23, 2009
Page Three

§ 54957.1(a) provides that the legislative body must report in open session the votes taken on any matter upon which action was taken in closed session. Government Code § 54954(3)(a) mandates that the public be provided an opportunity to address the legislative body on any items on the agenda as well as any item of interest to the public that is within the subject matter jurisdiction of the legislative body. Finally, Government Code § 54954.2 authorizes members of the legislative body to make a brief response to any statements or questions posed by members of the public even if the issue raised by the member of the public is not on the agenda.

With all of this in mind, we cannot understand how the comments made by Board Member Maldonado in connection with the vote on the employee grievance, as described in Report #6, can be considered to constitute a violation of the Brown Act. There is no reference in the narrative in Report #6 to any "confidential information" that was disclosed by the Board Member. To the extent that the "employee grievance" was discussed in closed session, it would have to be referenced on the agenda. If a vote occurred on that matter, the vote would have to be reported in open session. More importantly, any member of the public who so desired was not only entitled to address the Board on such a matter, but a Board Member who so desired was also entitled to respond, albeit briefly, to such comments. It would appear that the real problem with respect to this matter would be if, as stated in Report #6, the Board did not include a reference to the "employee grievance" that it discussed in closed session on its agenda for that meeting and not a Board Member's effort to disclose his reasons for his vote in closed session.

Thank you for your attention to this matter.

Respectfully,

LAW OFFICES OF
BENNETT & SHARPE, INC.



THOMAS M. SHARPE
TMS/mn

cc: Marilyn Watts, Foreman, 2008-2009 Fresno County Grand Jury
Board of Supervisors, County of Fresno
President and Members of the Board of Education, Parlier U.S.D.
Jerome M. Behrens, Esq.

REPORT #7

**GOLDEN PLAINS UNIFIED SCHOOL
DISTRICT BOARD OF TRUSTEES**

FILED

JUN 29 2009

FRESNO COUNTY SUPERIOR COURT
By _____ DEPUTY

**2008-2009
FRESNO COUNTY GRAND JURY**



FINAL REPORT

#7

**Fresno County
2008 – 2009 Grand Jury
Report #7**

**Golden Plains Unified School District
Board of Trustees**

**“Nothing in all the world is more dangerous than sincere ignorance and conscientious stupidity.”
Martin Luther King Jr.**

INTRODUCTION

The Fresno County Grand Jury investigated the activities of the Golden Plains Unified School District Board of Trustees (Board) as a result of a citizen complaint. The complaint included an allegation that one board member does not live in the Golden Plains Unified School District (District). Additional issues raised in the complaint included allegations that the Board engaged in micromanagement, failed to hold employees accountable for their performance, created an untenable work environment that resulted in rapid turnover of school administrators, and engaged in fiscal mismanagement and nepotism that compromised the morale of employees and the educational opportunities of the children.

The grand jury interviewed twenty witnesses, reviewed five audit reports and the District’s Policies and Procedures Manual. In addition, the grand jury examined the Golden Plains Unified School District management evaluation conducted by the Fiscal Crisis and Management Assistance Team (FCMAT) as well as the Western Association of Schools and Colleges (WASC) report on Tranquillity High School.

BACKGROUND

DISTRICT CHARACTERISTICS

Golden Plains Unified School District is a collection of small rural farming communities in southwestern Fresno County. The District includes the communities of Tranquillity, Cantua Creek, Helm, Three Rocks, and San Joaquin. The District unified in 1990 and serves approximately 1,938 students to include four K-8 schools, Tranquillity High School, a continuation high school, and a community day school.

The ethnic makeup of the district is 91% Hispanic, 8% Caucasian, and 1% Asian. One hundred percent of the students qualify for free or reduced lunches. Because the District covers 100 square miles, over 90% of the students ride the bus to school, some spending over forty-five minutes one way. Most students come from families whose major source of income is agriculture, which has been seriously affected by several

years of drought and reduced federal water supplies. A significant number of students take an extended vacation during the winter to visit relatives in Mexico because parents are not working at that time.

SCHOOL BOARD

The seven school board members are locally elected members of the community charged with working cooperatively and collaboratively with the superintendent to set goals and direction for the District. They are to set policy and provide oversight. In addition, they are to act as advocates for the students, the District's education programs, and public education. Moreover, they are to set budget priorities and support the superintendent and staff in implementing policy.

One member of the Golden Plains Unified School District who has served for 46 years was honored by the State of California as the longest serving school board member in the state. Two other board members have served twenty years or more, and another board member has served intermittently over the last ten to twelve years. Board members receive \$50.00 per month and health insurance.

CALIFORNIA SCHOOL BOARD ASSOCIATION

The California School Board Association's (CSBA) qualifications for a school board member are that he/she be 18 years of age or older, a citizen of California, a resident of the school district, a registered voter, and not disqualified from holding office by the state constitution or laws. CSBA further requires that individual board members 1) keep learning for all students as their primary focus, 2) keep confidential matters confidential, 3) participate in professional development, 4) commit the time and energy necessary to be an informed and effective leader, 5) understand the distinctions between board and staff roles, 6) refrain from performing management functions that are the responsibility of the superintendent and staff, and 7) understand that authority rests with the board as a whole and not with individuals.

ISSUES OF CONCERN

MICROMANAGEMENT

Two of the CSBA requirements for school board members are that they should understand the different roles of the board and the superintendent and that they should not perform management functions that are the responsibility of the superintendent. The 2008 Western Association Schools and Colleges (WASC) Report for Tranquillity High School and the 2007 Fiscal Crisis and Management Assistance Team (FCMAT) Management Review of the District identified micromanagement as a major problem. Specifically, the WASC report noted a need to create clearer boundaries between the duties and responsibilities of the school board, school administrators, and staff.

The grand jury received consistent testimony from numerous witnesses that micromanagement continues. Testimony from numerous witnesses established that some board members routinely visit the District office, engaging in lengthy conversations, compromising the effectiveness of staff members, and blurring the lines of accountability. Moreover, one board member daily examines the checks written by the staff and approves or disapproves each check for payment rather than the Chief Business Officer and/or Superintendent.

The grand jury also found many other intrusive actions on the part of some board members. Disgruntled employees approached a friendly board member rather than their immediate superior or the Superintendent. Parents with a problem would go to a board member who would then discuss the matter with the Superintendent. Instead, the board member should have referred the parent directly to the appropriate teacher or principal rather than the Superintendent. Some board members engaged in retaliatory behavior if a relative or friend working for the District were criticized, reassigned, or not promoted.

Testimony to the grand jury consistently established that certain board members and the Board as a whole attempt to perform management functions undermining the Superintendent, administrators, and staff. This behavior by the Board resulted in rapid turnover of staff in leadership roles and demoralized many of the remaining employees of the school district.

Superintendent

Some board members also inappropriately involved themselves in the personnel process rather than ratifying the Superintendent's choices. Testimony given to the grand jury revealed a pattern of hiring and promoting people on the basis of their relationship with a board member rather than performance or qualifications of the applicant. In one case, a person related to a board member was hired to handle high school discipline but had neither a teaching nor an administrative credential. When an administrator objected to hiring the board member's relative because of the lack of appropriate qualifications, members of the Board subsequently challenged every proposal the administrator presented. The newly hired employee failed to perform several duties. This was brought to the Superintendent's attention, but the issue was not pursued. The District has since hired a Personnel Director whose job is to ensure that applicants hold the appropriate credentials and qualifications before being hired.

The grand jury discovered that the District has had four Superintendents since July, 2004. The immediate past Superintendent, who was regarded as highly qualified, remained only six weeks. Testimony established that she made personnel and administrative decisions with which some board members disagreed. As a result, the Board decided to buy out this Superintendent's contract, including retirement and health benefits.

Chief Business Officer

One consequence of this pattern of micromanagement has been a rapid turnover in administrators. Both of the above reports (FCMAT and WASC) noted the rapid turnover in leadership at both the District and the school levels and the negative effect that it has had on the District's ability to accomplish goals. The January, 2007 FCMAT report noted that the repeated turnover in the position of Chief Business Officer (CBO) had contributed to the District's increasing financial problems. Experienced authorities testified that a CBO needs at least three years in the position to be effective. Testimony indicated that the most recent CBO had been hired in October, 2006 and received eighteen months of extensive training through the Fresno County Office of Education. The Board resisted the CBO's attempts to restore the District's reserve fund and appropriately allocate lottery funds into the correct accounts. Furthermore, additional testimony confirmed that she was criticized in open meetings for these actions. In addition, some board members consistently undermined the CBO's authority by involving themselves in the everyday activities of her office. The CBO went on paid administrative stress leave on December 17, 2008; and the District bought out the rest of her contract.

Principal

The WASC report noted the need for stability in the position of principal at Tranquillity High School. The principal at that time had brought the school out of Program Improvement (PI), a condition under the federal No Child Left Behind policy that signifies problems with academic performance. Under his leadership, the school received a silver award for excellence from *U.S. News and World Report*. Testimony indicated that problems with the Board resulted when he moved a school secretary, the sister of a board member, to another school. This incident along with other conflicts resulted in the Board opposing the principal's proposals. Feeling that he was going to be continually blocked, he resigned.

LACK OF TRAINING

Other CSBA requirements of school board members are that they participate in professional development and commit the time and energy necessary to be an informed and effective leader. The CSBA offers numerous and continuous workshops for new as well as experienced board members. The grand jury found that most board members lacked the training to serve effectively. Although all board members had been encouraged to attend, only the most recently elected board member, the Superintendent, and some staff attended the CSBA Institute for New and First-Term Board Members offered earlier this year. Additional testimony found that the most experienced board members had received training when they first became board members but had not received any since. Therefore their training is at least twenty years old. In addition, none of the board members were familiar with the District's policy and procedures manual which includes a description of various state regulations. The

grand jury also found a need for training in *Robert's Rules of Order* in order to proceed appropriately in both open and closed meetings.

VIOLATION OF THE RALPH M. BROWN ACT

One of the CSBA requirements for board members is to keep confidential matters confidential, a part of the Ralph M. Brown Act (Brown Act). Testimony from every witness indicated that board business conducted in closed session is public knowledge by early the next morning in spite of the fact that the Brown Act requires discussions held in closed session be confidential. However, no one could identify who is violating confidentiality. This breach of the law is a longstanding, ongoing problem which compromises the credibility of the school board and creates a hostile work environment for employees. Since sensitive personnel issues are to be discussed and decided in closed session, their disclosure creates anxiety and embarrassment for employees. In addition, the Board discusses issues not included on the posted Board meeting agenda. The Brown Act requires that all issues discussed in either open or closed session be included on the posted agenda prior to the meeting. If an issue arises that is not on the agenda, it can be taken up at a later meeting after proper public notice is given.

FISCAL IRRESPONSIBILITY

Another of CSBA's requirements for board members is that their primary focus should be "learning for all students." The Board's fiscal choices demonstrate different priorities. The grand jury found numerous examples of fiscal irresponsibility. Perhaps the most egregious are the buyouts of three administrative contracts this past year, even in the face of declining revenues.

Testimony to the grand jury confirmed statements made in the January, 2007 FCMAT report which noted that the District had not kept the K-3 class sizes small enough to qualify for the K-3 Class Size Reduction funds. Failure to manage class sizes resulted in a loss of \$58,464 in state funds.

The District also had a pattern of deficit spending and problems maintaining a state required minimum 3% reserve. The most recent Chief Business Officer brought the reserve fund from 0.8% in June 2007 to 7.9% in June 2008. Since the CBO's contract has been bought out, an independent accountant has been hired at \$150 per hour plus per diem expenses. The accountant's bill for one recent month was \$15,000. In addition, the school district's attorney now attends each meeting, recently costing the district \$10,000 for one month. At the same time the Board authorized these expenditures, they have cut advanced placement classes, extra-curricular activities, and self-supporting student programs.

NEPOTISM AND CONFLICTS OF INTEREST

Numerous witnesses testified that some board members are more concerned with protecting the interests of some District employees and community members rather

than the interests of the students. A few board members have numerous relatives working for the school district. In a small town where the major employer is the school district, this is understandable. However, the grand jury received numerous reports of relatives of board members being shown favoritism. One example was the promotion of an individual to avoid disciplinary action. Another example resulted in retaliation on the part of the Board against the person initiating the move of a staff member. Efforts to discipline an employee related to a board member or the child of a board member have resulted in aggressive, retaliatory actions.

Another related issue is consideration of personnel issues regarding relatives of board members. The grand jury received testimony that board members do not vote on decisions affecting relatives. However, the Board's failure to act on cutting staff positions and deciding to cut teaching positions essentially postponed and saved the positions being held by board members' relatives. Even though the board members may not have voted on relatives in specific positions, they should have recused themselves from the discussion. These situations created a conflict of interest for board members.

RESIDENCE REQUIREMENTS FOR BOARD MEMBERSHIP

The issue of residency within the District regarding one board member was raised consistently by numerous witnesses. This has been a contentious issue within the community since the District was unified, thereby changing boundaries. Numerous witnesses interviewed by the grand jury stated that once the boundary was changed, the board member did not reside within the Golden Plains Unified School District. The board member lives with his wife at an address outside the District, but he operates a store with his mother who lives behind the store. He registered to vote within the District using the store as his address. Voter registration requires that you state your residence, which for voting purposes is the person's domicile. The 2009 California Election Code states that a person may have only one domicile, i.e., "that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning." Attempts to obfuscate the obvious bring into question the integrity of the board member and the credibility of the school board.

The issue of the board member's residency recently was brought to the attention of the Fresno County District Attorney, the Fresno County Office of Education, and the State Superintendent of Public Instruction. The grand jury also made an inquiry with the Election Fraud Unit of the Elections Division of the Secretary of State's Office of the State of California on February 11, 2009. No responses have been received.

CONCLUSIONS

The investigation revealed that board members have received little or no training, engaged in micromanagement, violated the Brown Act, and engaged in nepotism.

Fiscal decisions made by the Board have jeopardized the financial well-being of the District and compromised the educational quality of the students. The ongoing question of a board member's residency compromises the credibility of the Board with the community.

Board actions have resulted in rapid turnover in leadership at both the District and the school levels. The lack of consistent leadership has compromised the District's ability to accomplish goals. The grand jury sees no evidence that any of these practices have changed. It appears that something other than the students' education is the Board's top priority.

FINDINGS

- F701 Some members of the Board engage in micromanagement, i.e., perform management functions inappropriate for board members.
- F702 Some individual board members visit the District office to discuss budget and personnel issues with the superintendent and/or staff.
- F703 Board members have little, if any, training in their responsibilities as school board members.
- F704 Board members are not familiar with their District's policy and procedures manual.
- F705 Some board members violate the confidentiality provisions of the Brown Act.
- F706 Issues not included in the meeting agenda are discussed in open and closed sessions in violation of the Brown Act.
- F707 Some board members criticize personnel in open meetings.
- F708 The Board has created a hostile work environment leading to rapid turnover of leadership at school and District levels.
- F709 The Board has bought out contracts of District administrators, adding to the economic hardship of the school district.
- F710 Family members of board members are employed by the District, resulting in nepotism and conflicts of interest.
- F711 One member of the Board resides outside the boundaries of the Golden Plains Unified School District.

RECOMMENDATIONS

The 2008-2009 Fresno County Grand Jury recommends that the following be implemented.

- R701 That board members rely on the Superintendent for information regarding budget, personnel, and student performance. (F701-704)
- R702 That board members refrain from regular visits to the District office, distracting personnel from their designated duties. (F702)
- R703 That all board members attend on-going workshops offered through the California School Board Association and/or the Fresno County Office of Education to become competent board members. (F703-707)
- R704 That all board members become thoroughly familiar with the District's policy and procedures manual. (F704)
- R705 That board members confine comments regarding personnel performance to closed sessions, in accordance with the Brown Act. (F705, F707, F708)
- R706 That the Board keeps all matters conducted in closed session confidential, except that which is appropriate to report in open session. (F705)
- R707 That the Board refrains from discussing items not posted on the meeting agenda. (F706)
- R708 That board members conduct themselves in a manner that communicates respect for others and each other. (F707, F708)
- R709 That board members shall refrain from any retaliatory action taken against a person who has been critical of a friend or relative or with whom a board member disagrees. (F708)
- R710 That board members shall remove themselves from any discussion or vote which may involve a family member. (F710)
- R711 That all board members reside within the District. (F711)

RESPONDENTS

Pursuant to Penal Code 933.05, the Fresno County Grand Jury requests responses to each of the specific recommendations. It is required that responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

RESPONDENTS

Golden Plains Unified School District Superintendent (F701-F711, R701-R711)
Golden Plains Unified School District Board of Trustees (F701-F711, R701-R711)
Fresno County Office of Education (F703, R703)
Fresno County Office of District Attorney (F711, R711)

SOURCES AND REFERENCES

California School Board Association
California Secretary of State Fraud Unit
California Election Code, Chapter 4 - Definitions, Section 349 (Added by Stats. 1994, C920, Section 2.)
Documents from the Fresno County Office of Education
FCMAT Report
Fresno County Voter Guide
Golden Plains Unified School District Policy and Procedures Manual
Internet Resources
Various Fresno County Office of Education Documents and Correspondence for the following fiscal years 2008-09, 2007-08, 2006-07, 2005-06, 2004-05, 2003-04, 2002-03, 2001-02: adopted budgets, interim reports, annual audits and certifications, corrective actions, accounts payable audits, student transfer requests appeals, contracts, salaries, payroll information, current District Reserve Funds and general comment letters
WASC Report
Witness Interviews
Fresno County Office of Education Staff
Fresno County Supervisors
Golden Plains Unified School District Community Members
Golden Plains Unified School District Past and Present Board of Trustees
Golden Plains Unified School District Past and Present Staff
Other Professional Educational Officials
San Joaquin City Officials

RESPONSES

A. Golden Plains Unified School District Superintendent
R701 through R711
Not received by publication date

B. Golden Plains Unified School District Board of
Trustees
R701 through R711

C. Fresno County Office of Education
R703

D. Fresno County Office of the District Attorney
R711

E. Letter from Board Member Larry Gilio

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Golden Plains Unified
School District

"We Stand United For Kids"

Interim Superintendent

Susana Ramirez

*Director of Human
Resources*

Anna L. Ramirez

Chief Business Officer

Ralph Hatland

Board of Trustees

Catrino Ruiz, President

Larry Gilio, Clerk

Kathy Ayerza

Seth Bowles

Kathy Chaffin

Maria Medina

Alex Metzler

22000 Nevada Street
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San Joaquin, CA 93660

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www.gpusd.org

*Serving the communities of
Cantua Creek, Helm,
San Joaquin and Tranquillity*

September 25, 2009

The Honorable M. Bruce Smith
Presiding Judge of Fresno County Superior Court
Fresno County Grand Jury
Fresno County Courthouse
1100 Van Ness Avenue
Fresno, California 93724-0002

Re: 2008-2009 Grand Jury Report No. 7 Regarding Golden Plains Unified School
District Board of Trustees

Dear Judge Smith:

The Golden Plains Unified School District ("District") received the 2008-2009 Grand Jury Report Number 7 ("Report") entitled "Golden Plains Unified School District Board Trustees." Please accept this letter as the Board's response to the Report pursuant to Penal Code section 933.05. We make the following general response, followed by a specific response to the items listed, then the District's statement of its proposed action in response to Grand Jury recommendations:

General Response:

The Board is a body elected by the constituents of the District and entrusted with the proper governance of our community's schools. More specifically, the Board's role is to (1) establish a vision for our schools, (2) maintain an effective and efficient structure for the operation of the District, (3) ensure appropriate accountability to the public, and (4) provide leadership in the pursuit of the District's educational mission. Our District's mission is to ensure that all students acquire the knowledge, skills and attitudes essential to become productive members of society. Each member of the Board is fully committed to fulfilling the Board's role in accomplishing this mission.

Even prior to the Report and the events giving rise to it, the Board had initiated steps to review and, where necessary, change its governance policies and practices. For example, the Board directed that communication with the Superintendent regarding Board member concerns would be conducted through the Board President. The Board also began the process of finding and planning a Board Workshop regarding training for Board members with regard to their roles and responsibilities.

Our Mission:

"The GPUSD Office is committed to providing professional, courteous service, and support to our valued students, dedicated staff, and our communities."

The events giving rise to the Report only further challenged us to evaluate how we have performed to date and provoked greater reflection on how we will move forward as a Board to better serve our constituents and our community.

To facilitate our review of the Grand Jury's recommendations, we contracted with a well respected local school superintendent, Mr. Juan Garza, Superintendent of the Kings Canyon Unified School District, to conduct several community meetings. Mr. Garza held meetings with students, staff and parents. At the September 17, 2009 board meeting, Mr. Garza reported his findings from his "Voices of the Community" meetings. Mr. Garza also made recommendations to us about how best to respond to the Grand Jury's concerns. Finally, we held several open session board meetings to discuss the grand jury findings. Thus, the Board has carefully reviewed and evaluated the Report to gain further insights on improving its governance practices. In general, the Board agrees with the Report's findings, recommendations and required actions.

We have attached the following documents: (1) A proposed Code of Ethics Agreement; (2) proposed Governance Team Protocols; (3) Section 1 of a draft Superintendent employment agreement that outlines Board-Superintendent roles and responsibilities; and (4) Section 10 of a draft Superintendent employment agreement that details the Superintendent evaluation process. The purpose of attaching each of these documents is to provide the grand jury with concrete evidence of the Board's good faith efforts to respond to the grand jury's concerns.

Each issue raised by the Grand Jury is addressed in detail below.

Specific Responses:

MICROMANAGEMENT

1. Grand Jury Statement F701: "Some members of the Board engage in micromanagement, i.e., perform management functions inappropriate for board members."

Response: The Board agrees that steps are necessary to ensure the Board governs properly and that it does not "micromanage" its administrators. The Board is also in the process of hiring a permanent superintendent. The Board will schedule a Board Training Workshop once its permanent superintendent is selected to help ensure a good working relationship between the Board and the permanent superintendent. Further, the Board will develop policies and practices to ensure administrative suggestions and recommendations are properly considered. In the permanent superintendent's employment contract, the board also intends to delegate control of the day-to-day operations to the superintendent and include a provision in the employment agreement in which both the Board and the Superintendent promise not to usurp the authority of the other. The Board also intends to have the permanent superintendent routinely discuss matters with the Board President for scheduling of agenda items. Board members also intend to develop policies and protocols in which Board members will agree to direct community members to the Superintendent or other administrators for follow-up on community member questions and concerns.

The Report indicates testimony to the Grand Jury consistently established "that certain Board members and the Board as whole attempted to perform management functions undermining the

Superintendent, administrators and staff.” (Page 3, Paragraph 3) The Board, through training and the institution of new practices and procedures, will change this fact.

The Report indicates that there has been a large turnover of superintendents due to Board mismanagement. The Board acknowledges that there has been turnover in the position of superintendent and that difficulty working with the Board is one cause of the turnover; however, the Report does not consider other factors which may also have contributed to the turnover. For example, the District is located in a small rural community with many challenges. Often school administrators will select a small district where they can gain experience before accepting positions in larger districts. Additionally, the District’s geographic isolation and the inability to highly compensate its superintendents contribute to the turnover.

With regard to the recent release of the Chief Business Officer and a principal, the Board stands by those decisions as correct. The Grand Jury report reflects either misunderstanding or lack of knowledge regarding all of the facts. Public entities may not disclose personnel matters. Article I, section 1 of the California Constitution provides several inalienable rights to the citizens of California, including the right to privacy. There are specific facts regarding the reasons for the business officer and principal’s release which may have been unavailable to the Grand Jury resulting in an inaccuracy with regard to the findings of the Report.

2. Grand Jury Statement F702: “Some individual board members visit the District office to discuss budget and personnel issues with the superintendent and/or staff.”

District Response: Even prior to the Report, the District instituted a new practice that Board members were not to routinely visit the District office. At present, Board members no longer regularly visit the District office.

LACK OF TRAINING

3. Grand Jury Statement F703: “Board members have little, if any, training in their responsibilities as school board members.”

District Response: As indicated in the Report, several Board members have many years of experience and knowledge in performing their duties. One member has served for 46 years; two others have served 20 or more years; and another has served 10 to 12 years. These members have dealt with various situations over the years including personnel matters, Brown Act issues, fiscal issues and other matters related to duties of a board member.

However, even though many Board members are very experienced, New board members have received training. Board Member Kathy Ayerza has filed training certificates with the District Office and Nick Bowles attended CSBA training last year as a first time board member. Additionally, the Board has agreed to participate in board training through an appropriate workshop or series of workshops. Board member training will encompass board roles and responsibilities, the Brown Act, the Public Records Act, sexual harassment prevention and other topics relevant to school Board members. The Board hopes to have completed this training by December 31, 2009. Further, the Board will ask the Superintendent to ensure that District

employees receive training regarding the roles of an individual as a Board member versus the same individual's role as a parent or community member.

4. Grand Jury Statement F704: "Board members are not familiar with the District's policy and procedures manual."

District Response: In addition to the training discussed above, the Board will provide direction to the Superintendent to regularly review Board Policies and Administrative Regulations and incorporate CSBA suggestions into such policies.

VIOLATION OF RALPH M. BROWN ACT

5. Grand Jury Statement F705: "Some board members violate the confidentiality provisions of the Brown Act."

District Response: The Report identifies that it is public knowledge that information discussed in closed session becomes open session by the next morning (Page 5, Paragraph 1 under VIOLATION OF THE RALPH M. BROWN ACT.) However, the Report cites no specific facts or allegations in support of this conclusion. The Board members know their confidentiality duties and do their best to adhere to those rules. Further, the Board intends to schedule a Brown Act training by December 31, 2009.

6. Grand Jury Statement F706: "Issues not included in the meeting agenda are discussed in open and closed sessions in violation of the Brown Act."

District Response: The District will conduct a Brown Act training for all Board members by December 31, 2009.

7. Grand Jury Statement F707: "Some board members criticize personnel in open meetings."

District Response: The Grand Jury does not list any specific instances of "criticizing personnel in open meetings;" therefore, it is difficult for the Board to respond. However, in adopting the "Governance Team Protocols" and the "Board Member Code of Ethics Agreement," the Board has committed itself to "disagree only out of respect" and "to treat staff, other Board members, our constituents and members of the public with respect and courtesy." Copies of these documents are attached for the Grand Jury's review.

8. Grand Jury Statement F708: "The Board has created a hostile work environment leading to rapid turnover of leadership at the school and District levels."

District Response: The Board will engage in a Board workshop outlining Board responsibilities and rules. The Board will also receive training on the Brown Act and sexual harassment prevention. Finally, the Board is currently reviewing and revising for adoption and implementation in the near future the attached examples of a Code of Ethics Agreement and Governance Team Protocols which each Board member has reviewed and agrees to adhere to.

FISCAL IRRESPONSIBILITY

9. Grand Jury Statement F709: “The Board has bought out contracts of District Administrators, adding to the economic hardship of the school district.”

District Response: The District’s current economic hardship is, of course, due to many factors. In fact, the District’s economic hardship is due, in large part, to factors beyond the Board’s control. The entire State Education System is experiencing an economic crisis.

NEPOTISM AND CONFLICT OF INTEREST

10. Grand Jury Statement F710: “Family members of board members are employed by the District, resulting in nepotism and conflicts of interest.”

District Response: Golden Plains is a large employer for the small, rural communities that it serves. Members of the Board must live in the District. Consequently, there may be family members who work for the District as well. However, the Board has agreed to institute a new nepotism policy and to comply with all laws applicable to nepotism.

11. Grand Jury Statement F711: “One member of the Board resides outside the boundaries of the Golden Plains Unified School District.”

District Response: This is an individual Board member issue. It is our understanding that the individual member has his own legal counsel and is addressing this matter directly with the Grand Jury.

RESPONSES TO RECOMMENDATIONS

Grand Jury Recommendation R701: “That board members rely on the Superintendent for information regarding budget, personnel, and student performance.”

District Response: Accept. Board members will rely on the Superintendent’s information.

Grand Jury Recommendation R702: “That board members refrain from regular visits to the District office, distracting personnel from their designated duties.”

District Response: Accept. Board members will refrain from entering the District office. In addition, the Board has adopted a protocol that Board members should contact the Board President about issues and the Board President will contact the Superintendent.

Grand Jury Recommendation R703: That all board members attend on-going workshops offered through the California School Board Association and/or the Fresno County Office of Education to become competent board members.”

District Response: Accept. Board members will attend appropriate workshops offered by trained and professional providers.

Grand Jury Recommendation R704: “That all board members become thoroughly familiar with the District’s policy and procedures manual.”

District Response: In addition to the training discussed above, Board members will provide direction to the Superintendent to regularly review Board Policies and Administrative Regulations, incorporate CSBA suggestions into such policies and bring concerns and recommendations to the Board for updates to such policies.

Grand Jury Recommendation R705: “That board members confine comments regarding personnel performance to closed sessions, in accordance with the Brown Act.”

District Response: Accept. Board members have and will continue to confine comments regarding personnel matters to closed session in accordance with the Brown Act.

Grand Jury Recommendation R706: “That the Board keep all matters conducted in closed session confidential, except that which is appropriate to report in open session.”

District Response: Board members will keep closed session matters confidential and will publicly report final action on personnel matters as required by law.

Grand Jury Recommendation R707: “That the Board refrain from discussing items not posted on the meeting agenda.”

District Response: Accept. The Board will continue to follow Brown Act rules and requirements.

Grand Jury Recommendation R708: “That board members conduct themselves in a manner that communicates respect for others and each other.”

District Response: Accept. Board members will conduct themselves in a proper and ethical manner. In addition, the Board has developed a Code of Ethics in which each Board member makes a written commitment to, among other things, treat staff, other Board members, and members of the public with respect and courtesy.

Grand Jury Recommendation R709: “That board members shall refrain from any retaliatory action taken against a person who has been critical of a friend or relative or with whom a board member disagrees.”

District Response: Accept. Board members will institute a nepotism policy, follow that policy, and Board members will not retaliate.

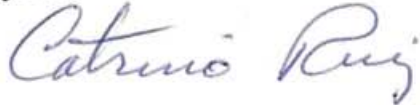
Grand Jury Recommendation R710: “That board members shall remove themselves from any discussion or vote which may involve a family member.”

District Response: Accept. Board members will follow all laws governing conflicts of interest. The Board will also update its conflict of interest code.

Grand Jury Recommendation R711: "That all board members reside in the District."

District Response: Board members will comply.

Very truly yours,

A handwritten signature in blue ink that reads "Catrino Ruiz". The signature is written in a cursive style with a large initial 'C'.

Catrino Ruiz
Board President
Golden Plains Unified School District

cc: Golden Plains Board
Susana Ramirez, Interim Superintendent

Golden Plains Unified School District Board Members Code of Ethics Agreement

As a member of the Board of Trustees, I promise I will:

- Represent the interests of all people served by the District.
- Not use the organization or my service on the Board for my own personal advantage or for the individual advantage of my friends, relatives or supporters.
- Keep confidential information confidential.
- Approach all Board issues with an open mind, prepared to make the best decision for the whole organization.
- Focus my efforts on the mission and goals of the District and not on personal goals.
- Never exercise authority as a board member except when acting in a meeting with the full Board or as I am delegated authority by the Board.
- Be on time, focused and prepared for our meetings.
- Respect and learn from differences of opinions and philosophies.
- Treat staff, my fellow board members, our constituents, and all members of the public and the community with respect and courtesy.
- Recognize and appreciate the professional judgment of our staff and their commitment to our schools, our programs, and our students.
- Communicate openly and with integrity.
- Debate issues not personalities.
- Have students needs and priorities drive my decisions.
- Ask questions for clarification.

- Address the “what” issues in order to allow the administration to handle the “how” implementation issues.
- Once a decision has been made, I will support the decision of the majority.

Dated: _____

Catrino Ruiz, Board President

Dated: _____

Larry Gilio, Board Clerk

Dated: _____

Kathy Chaffin, Board Member

Dated: _____

Kathy Ayerza, Board Member

Dated: _____

Seth Bowles, Board Member

Dated: _____

Maria Medina, Board Member

Dated: _____

Alex Metzler, Board Member

GOLDEN PLAINS UNIFIED SCHOOL DISTRICT GOVERNANCE TEAM PROTOCOLS

No Votes or Abstentions

When a member of the Governing Board casts a “no” vote or abstains from voting on a particular issue; as a courtesy, the member offers a short statement as to the reason for his/her action.

Agree to Disagree

Recognizing that leaders have different management styles and philosophies, differences of opinion are expected. When a controversy or split vote occurs on a significant issue, the Governance Team agrees to disagree out of respect for the other person and his/her right to that opinion. We also understand that majority rules.

Process over Personalities

Our organization is dedicated to developing quality programs that serve the needs of our students. We recognize that the process used must place the needs of the students and district first. The criteria must include fiscal accountability as well as program integrity.

Chain of Command

We recognize that only one-employee answers directly to the Governance Team, the Superintendent. We value the chain of leadership and command for our District and will model the leadership we desire. We will annually evaluate our Superintendent based upon mutually agreed upon methods and standards.

Heads up Protocol

If any member of the Governance Team becomes aware of an issue or problem at a school site or program location, they will immediately inform the Superintendent. We are a team and we choose to support our team by sharing information and working cooperatively to address issues.

Confidentiality

Confidentiality is vital to the health of our organization. We recognize that the items discussed in closed session as provided for in the Brown Act are confidential. We take this seriously and commit to maintaining the integrity of the process. If we unintentionally violate this standard, we will immediately notify the Superintendent and take personal responsibility.

Site/Programs Visitations

When visiting a program or school site on behalf of the Board of Trustees, as a courtesy, we will inform the Superintendent and staff involved of the date and time of our visit. It is our desire to observe and support our programs and courses, not interfere with District or school operations.

Handling concerns and complaints from the Public and Staff

When someone complains to us, we will listen carefully, remembering that we are hearing only one side of an issue. We will direct the person or persons to the staff member most appropriate and able to help them resolve their concern. We will make sure that they understand the appropriate order of whom to contact and will make them aware of any formal policies or procedures. We will endeavor to ensure that everyone who brings a concern to us be treated fairly, equally, and expeditiously. We will work to maintain the proper adherence and implementation of district procedures and policies. We understand that as individuals we have no power to fix the problems. As representatives of the public, it is important that we invite the person with the complaint or concern to ultimately get back to us if the issue is not resolved.

Self-Monitoring of Governance Team Effectiveness

We will schedule and participate in at least one workshop every year to review Governance Team agreements and processes and to participate in a self-evaluation process.

Superintendent Evaluation

We recognize the value and importance of a comprehensive and formal evaluation process for the Superintendent. We agree to abide by all contract terms and will conduct a formal evaluation each year.

Individual Board Member Requests for Information

When an individual Board Member requests information, it will be provided to all Board members. An individual Board member will – insofar as possible – work to let the Superintendent and staff know ahead of time when a request will be made in public. This will allow the staff member to be prepared to answer any questions or to prepare materials. We will self-monitor our own requests to ensure that one member's requests will not divert an inappropriate amount of time from staff efforts to achieve District goals. We recognize the concept of "*Nice to Know vs. Need to Know*" information and will seek information only as needed for effective decision-making.

Individual Board Member Requests for Action

The only authority to direct action rests with the Board of Trustees when seated at a regular or special meeting of the Governance Team. Outside of this setting, we have no authority. A majority vote of the Board sets the direction. Individuals can request action by bringing up a new idea, explaining their interest in a particular course of action, and by working at a meeting to gain majority support to approve the action at another meeting.

Board Meeting Management

We understand and agree that Board meetings are meetings of the Board held in public, not open forum town hall meetings. We will keep this in mind as we conduct our meetings, allowing the public to provide input at the time allotted to ensure that multiple voices of the community are heard. We will consistently abide by our formal agreements and protocols in relation to this issue so that all persons are treated fairly and equally.

No Surprises

We will work together to keep each other informed of District successes and challenges. In the event of an emergency situation involving the health or welfare of our students or staff, disciplinary actions toward an employee, or other emergency situations, the Superintendent will work to keep the Board informed in a timely manner. It is also the responsibility of the Board to inform the Superintendent immediately of any information crucial to the well being of the students, schools, or the District.

Board Members will:

1. Work with all members of the Board and the Superintendent to become a team devoted to students.
2. Act with courtesy, professionalism and dignity.
3. Make decisions only at properly scheduled meetings.
4. Focus on policymaking, planning and evaluation for student success.
5. Govern within Board-adopted policies and procedures.
6. Understand authority rests with the Board as a whole and not with individuals Board members.
7. Attend regularly scheduled Board meetings unless a situation occurs that makes attendance impossible; cooperate in scheduling special meetings and/or work sessions for planning and training purposes.
8. Understand the distinctions between Board and staff roles, and refrain from performing management functions that are the responsibility of the Superintendent and staff.

9. Acknowledge individual requests for reports and projects will be directed only to the superintendent.
10. Understand the Superintendent's role to make personnel recommendations and changes in consultation with the Board.
11. Understand the Board as a collective body must give clear signals to its professional staff through its Superintendent.
12. Participate in establishing annual expectations and goals for the Superintendent.
13. Objectively evaluate the Superintendent's performance and provide appropriate feedback.
14. Periodically evaluate the Board's own effectiveness.
15. Communicate directly with the Superintendent prior to Board meetings to address questions and/or concerns about agenda items.
16. Honor the "no surprises" rule with the Superintendent and fellow Board members.
17. Communicate one-on-one with the Superintendent when an individual concern arises.
18. Cast a vote on all matters except when a conflict of interest arises.
19. As time permits, visit school sites and attend school functions, but avoid interrupting instruction or interrupting employees at work.
20. Participate in professional development and commit the time and energy necessary to be an informed and effective leader.

The Superintendent will:

1. Work toward creating a team with the Board dedicated to students and student achievements.
2. Respect and acknowledge the Board's role in setting policy and overseeing the performance of the Superintendent.
3. Work with the Board to establish a clear vision for the school District.
4. Recognize that the Board/Superintendent governance relationship requires support by the District's management team.
5. Understand the distinction between Board and staff roles, and respect the role of the Board as the representative of the community.
6. Accept leadership responsibility and be accountable for implementing the vision, goals, and policies of the District.
7. Prepare preliminary goals annually for the Board's consideration.
8. Provide data to the Board members so data-driven decisions can be made.
9. Make personnel recommendations and changes in consultation with the Board.
10. Communicate with Board members promptly and effectively.
11. Inform the Board prior to critical information becoming public.

12. Distribute information fully and equally to all Board members.
13. Provide information requested by one Board member to every Board member.
14. Distribute the Board agenda in a timely fashion and with enough time for Board study.
15. Never bring a matter to a public meeting that is a surprise to a Board member.
16. Provide requests for additional information through a Board up-date, special report, Board agenda items, or as a Board workshop.
17. Present major decisions initially as a discussion item, then place it on the next Board agenda for action.
18. Treat all Board members professionally and with courtesy.
19. Communicate with individual Board members to determine if concerns exist prior to a possible problem developing, and respect the right to disagree with each other.
20. Visit school campuses regularly.
21. Evaluate all administrative staff, including site principals.
22. Ensure that all District employees are evaluated per contract by the appropriate supervisor.
23. Ensure that District employees receive training and information regarding an individual's role as a Board member versus the same individual's role as a parent or community member.
24. That only the highest qualified candidate will be hired.



Larry L. Powell
Superintendent

fresno county office of education

RECEIVED
BY [Signature] | DATE 8/11/09

July 28, 2009

Fresno County Grand Jury
Fresno County Courthouse
1100 Van Ness Avenue, Room 102
Fresno, California 93724-0002

Re: Response to Grand Jury Final Report #7 for 2008-2009

Honorable Members of the Grand Jury:

This is provided as the response of the Fresno County Superintendent of Schools/Fresno County Office of Education, to the Grand Jury's Final Report regarding the Golden Plains Unified School District ("District").

First, on behalf of the education community of Fresno County, I thank the Grand Jury for continuing to investigate educational issues. The students of Fresno County deserve the very best, and it takes all entities to provide the oversight and checks and balances to make our government work effectively. Second, I thank the Grand Jury for addressing the far-reaching and complex issues faced by the District.

The following are my specific responses to your report:

F703 Board members have little, if any, training in their responsibilities as school board members.

The legal requirements for trustee candidates are minimal: he/she must be 18 years of age; a California citizen and a resident of the school district; a registered voter; and not disqualified from holding office under the state constitution or laws. However, the position itself requires considerable legal and fiscal knowledge, ethics, altruism, and restraint. Although I agree with the Grand Jury's finding regarding the lack of training of the District's Board, such training will not necessarily address the historical problems of this district and its board. Training will not insure that the individual members each and every day, whether in or out of a meeting, choose to be ethical board members dedicated to serving the long-range needs of their community. Training also will not insure that the individual members will be willing to examine each and every decision, action, and response to guarantee it is not motivated by any individual member's personal bias, agenda, or desire for status in the community.

Re: Response to Grand Jury
July 28, 2009
Page 2

The Grand Jury's concerns, including the Board's violations of confidentiality, micromanagement and fiscal irresponsibility, are not due to a lack of training: they are due to the Board's historical method of operation. Until the trustees, as a majority, commit to the children of their community, inservices and workshops will not alter the course of the District. The Board's choices are not made out of ignorance or lack of training: they are conscious decisions that are often not in the best interests of the District.

R703 That all board members attend on-going workshops offered through the CSBA and/or the Fresno County Office of Education to become competent board members.

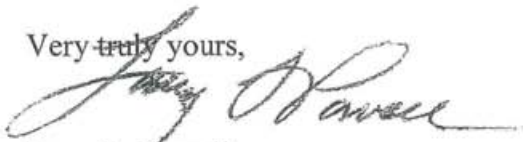
Board member training sessions for both new and experienced members are always offered at the annual CSBA Conference. In addition, every school law firm offers training, including the firm that the Board currently utilizes for legal advice. The District dedicates a considerable portion of its budget to legal fees; their attorney frequently attends Board meetings and often assists the District on a daily basis. The District has the means and the ability to fund trustee enrollment in the year-long CSBA program and the four-day annual CSBA conference, and to hire its legal counsel for local study sessions and trainings. It has chosen not to do so.

Although the FCOE Legal Services Department also provides Brown Act and Governing Board workshops on occasion, a two-hour workshop will not address the needs of the Board. As noted above, the Board already has legal counsel capable of providing such a workshop. Until a majority of the governing board publicly, and sincerely, commits to transform its method of doing business, lasting change will not occur, and the District's children will continue to pay the price. As stated by a parent who contacted me, "Nothing changes out here, and they [the Board] don't care about the kids."

I will continue to provide assistance to the District and to provide oversight in those areas where I legally may do so. I am more than willing to assist the District in tackling the issues addressed in the Grand Jury report so that the Board is able to do its true work — providing its children with a first-class education, and a fiscally solvent and legally compliant school district. I truly hope that the Board is willing to conduct a self-study and become a model of how a Central Valley school district can open the world to its youth.

Please do not hesitate to contact me regarding this matter or any other educational issue. Again, I thank the Grand Jury for recognizing the importance of education in both urban and rural communities, and for articulating the duties and responsibilities of the elected officials who are entrusted to educate the children of Fresno County.

Very truly yours,



Larry L. Powell
Fresno County Superintendent of Schools

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County of Fresno
Office of the District Attorney
Elizabeth A. Egan, District Attorney

August 28, 2009

The Honorable M. Bruce Smith
Presiding Judge
Fresno County Superior Court
1100 Van Ness Avenue
Fresno Ca 93721

Dear Judge Smith:

The following are my responses to the findings and recommendations of the 2008-2009 Fresno County Grand Jury Final Report #7 pertaining to the Golden Plains Unified School District Board of Trustees.

Findings

F711 One member of the Board resides outside the boundaries of the Golden Plains Unified School District.

The Fresno County District Attorney's Office does not possess the information to respond to this finding at this time.

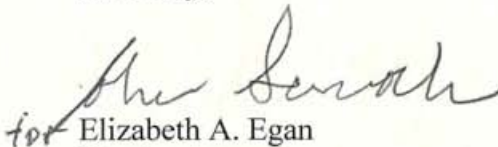
Recommendations

R711 That all board members reside within the District.

The Fresno County District Attorney's Office concurs with the recommendation.

This concludes my comments on the findings and recommendations of the Grand Jury for the year 2008-09.

Sincerely,


for Elizabeth A. Egan
District Attorney
County of Fresno

cc: Board of Supervisors

Larry Gilio
PO Box 459
28661 West Clarkson
Cantua Creek, CA 93608
July 6, 2009

Honorable M. Bruce Smith
Fresno Superior Court
1100 Van Ness Ave.
Fresno, CA 93724

Honorable M. Bruce Smith,

This letter is in response to the 2008-2009 Fresno County Grand Jury Report #7 dated June 22, 2009.

Although not identified by name in this report, I believe I am the Board member discussed on page 6 under "Residence Requirements For Board Members." I have been a member of this board since 1991. Previously, I was an elected member of Tranquillity Union High School Board from 1978 until unification in November 1991. One previous attempt to recall me was unsuccessful.

Since unification, no one has ever run against me for my position on the Golden Plains Board. I believe this shows the community of Cantua Creek is satisfied with my job performance, dedication to the students and my knowledge as a Board member.

My residence address is 28661 West Clarkson, Cantua Creek, CA 93608. (Please see attachment A) The store that I operate with my mother is located at 28655 West Clarkson Avenue, Cantua Creek, CA 93608. My mailing address is Post Office Box is 459, Cantua Creek, CA 93608 and has been my mailing address since 1977. Since 1949, my mothers mailing address has been Post Office Box is 44, Cantua Creek, CA 93608. I also receive mail in Box 44.

I am the sole caretaker of my 86-year-old mother. I cook for her; see that she gets proper medical attention and especially make sure she takes her daily prescription medications. I also review and complete all her paperwork and deal with the everyday necessities and aspects of her life. I drive her to Fresno and home again when necessary, on at least a weekly basis.

My "roots" since childhood have been, and are now, at my home and store in Cantua Creek. Cantua Creek is the home of my family, consisting of my mother, aunt, uncle and cousins. It is clearly my intent that Cantua Creek is my residence. (Please see IRS & St. of CA tax documents, attachment B)

California case law:

Where a person has two dwelling in different places and resides a part of his time in another alternatively, the question which of the two places is his legal residence is almost altogether a question of intent.

(Chambers v. Hathaway (1921) 200 P.931, 187 Cal.104.)

Further, Section 200c of the California Elections Code states, "At any given time a person may have more than one residence."

The Grand Jury quotes the 2009 California Election Code in support of its criticism of me, stating that the Code provides that a person may have only one domicile, defined as "that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning." Webster's Desk Dictionary (1993) defines "domicile" as: "1. a house or home. 2. a permanent legal residence." I believe the foregoing and attachments support the fact that my Cantua Creek address has been and continues to be my legal residence/domicile.

I am sorry this issue is being brought up again, as it was in 1990. It seems to be raised only when people in the District are unhappy with decisions being made.

Respectfully yours,



Larry Gilio

- Cc: Fresno County Office of District Attorney
- Golden Plains Unified School District Superintendent
- Golden Plains Unified School Board of Trustees
- Fresno County Office of Education
- Fresno County Elections Office
- Fresno County Supervisors

Attachments A and B included personal information that have been redacted for confidentiality purposes, e.g., copy of driver's license, automobile registration, dental benefits statement, Form 700 Statement of Economic Interests, financial statement with account number and 2008 Federal tax return.

MONTAGE OF 2008-2009 GRAND JURY ACTIVITIES



GRAND JURY



2008-2009