

# **The Value of Transparency in the Nevada County Board of Supervisors**

A Report on Responses to the 2015-2016 Grand Jury Report

## **Introduction**

The 2016-2017 Nevada County Grand Jury (Jury) has reviewed the responses to the report entitled *The Value of Transparency in the Nevada County Board of Supervisors* issued by the 2015-2016 Jury (2015-2016 Report) and inquired about progress toward implementation of those responses where appropriate. This report contains the results of follow-up interviews and information gathered to determine if the Board of Supervisors followed through with the responses given to that prior report.

## **Approach**

The 2015-2016 Report examined the issue of ethical transparency in the Nevada County Board of Supervisors (Board), specifically regarding conflict of interest and abstention. The Report asked the question “Is there a difference between a legal conflict and an ethical conflict?” It found that while the Supervisors are certainly ethical people there have been occasions when their conduct could have been interpreted otherwise by the public.

The purpose of the review and this report was to determine if the Board implemented the actions they agreed to take in their responses to the 2015-2016 Report.

## **Responses to Findings and Recommendations of the 2015-2016 Report**

### **Finding F5**

Most of the Supervisors believe ethics refers to the *Form 700* filings required from elected officials each year by the FPPC.

### **Response to Finding F5**

Disagree. The annual Form 700 filing is required by the California Government Code Section 87200 as a means for judicial, elected and appointed officials to publicly disclose certain economic interests. The Board understands that ethics laws extend beyond the Form 700 to encompass a comprehensive and complex array of issues ranging from Open Meetings Law (the “Brown Act”), public contracting, due process, perquisites and other official acts to codes of conduct when we are off-duty as well.

### Current Status Regarding Finding F5

The Jury recognizes that the ethics training the Supervisors receive does cover much more than just the Form 700 requirements and accepts their statement.

### **Recommendation R1**

Seek additional training and information to understand the difference between legal requirements and ethical considerations.

### **Recommendation R4**

Increase personal awareness of the need for public transparency between the Supervisors and parties with business before the Nevada County Board of Supervisors.

### Response to Recommendations R1 and R4

The recommendation is being implemented. These matters are covered comprehensively in the Ethics training the Supervisors receive that meets the requirements of AB 1234, and in the New Supervisor orientation every Supervisor receives through the California State Association of Counties. This training must meet requirements of State law and therefore is provided separately by a qualified legal expert. In addition, the Board members are regularly advised by County Counsel as issues arise, and members are encouraged to seek assistance from County Counsel if there is ever a question on how to proceed.

### Current Status Regarding Recommendations R1 and R4

The Jury hopes the Supervisors gain enough understanding in their training that “meets the requirements” and that they heed the advice of County Counsel.

### **Finding F7**

The *Order and Decorum* lacks sufficient guidance to Supervisors in assisting them in their personal decision making on questions of recusal.

### Response to Finding F7

Partially agree. Because the Board members receive focused ethics training that meets the legal requirements of AB 1234, the Order and Decorum is not intended for that purpose. Instead, it is designed to provide general guidance on the conduct of meetings. However, item #13 of the Order and Decorum does seek to address the matter of abstention and recusal. As indicated in Responses R2 and R3 below, the Board will consider revisions to this document during its annual workshop in January 2017.

## **Recommendation R2**

Develop and implement guidelines to assist the Nevada County Board of Supervisors in its decisions as to whether recusal is appropriate on a particular issue.

## **Recommendation R3**

Augment the *Order and Decorum* document, particularly in the area of public transparency of relationships between a Supervisor and parties with business before the Nevada County Board of Supervisors.

### **Response to Recommendations R2 and R3**

The recommendation has not yet been implemented, but will be implemented by March 1, 2017. Although such guidelines are covered comprehensively in the AB 1234 Ethics training and in the New Supervisor orientation every Supervisor receives through the California State Association of Counties, the Board will consider revisions to strengthen and clarify the Order and Decorum document at its annual workshop in January 2017. Whatever amendments are agreed to at the workshop will be implemented at a subsequent Board meeting in February, 2017.

### **Current Status Regarding Finding F7, and Recommendations R2 and R3**

Examination of the revised document, approved at the Board of Supervisors meeting on February 14, 2017 showed revisions only in the first section, titled “Public Participation in Board Meetings,” and did not address the subject of the Recommendations.

Item #13, “Disqualification/Abstention” was not changed from the previous wording:

Any Supervisor may abstain from voting on any matter. If it is determined, in consultation with the County Counsel or the FPPC, that a Supervisor has a legal conflict on any matter, then the Supervisor shall be disqualified from discussing or voting on that matter. A disqualification/abstention from voting on the merits of any matter shall be announced by the Supervisor audibly. The Supervisor may state the reason for disqualification/abstention. However, any Supervisor disqualifying him/herself due to a legal conflict of interest shall state the reason, shall completely abstain from participating in discussion on the matter and shall leave the room until the Board has completed its discussion and action on that matter.

Abstention/Disqualification shall not count as a vote for or against a matter for which a vote is taken. This section applies to all elected and appointed officials serving on any board, committee or commission of the County of Nevada. (Ord. 1558, 2/14/89)

## **Conclusion**

The Jury's goal in these Recommendations was to direct the Supervisors' attention to the issue of transparency and recusal. The Jury could not verify Item #13 was discussed at the Board's January meeting. The Jury believes the wording of Item #13 is sufficient if it is discussed in depth at the January workshop and considered often throughout the year.