

INTERIM REPORT
COUNTY PERSONNEL CONTRACT SIGNING

REASON FOR THE INVESTIGATION

The Nevada County Civil Grand Jury discovered the extension of the County Administrative Officer's contract for the year 1999 had probably been improperly executed.

PROCEDURE FOLLOWED

The Grand Jury reviewed the contract, the date of execution and the date the contract was submitted to the clerk of the Board of Supervisors. Sworn interviews were conducted with all five supervisors who were in office in 1998. The supervisors were: Karen Knecht, Fran Grattan, Peter Van Zant, Rene Antonson and Sam Dardick, Chairman. Sworn interviews were also conducted with the county counsel and the clerk of the Board of Supervisors. The Grand Jury reviewed extracts from the Brown Act concerning closed sessions and closed sessions reporting requirement.

FINDINGS

1. The Grand Jury learned from testimony that discussions with the County Administrative Officer and different supervisors relating to an extension of the County Administrative Officer's contract commenced in mid-1998. There was disagreement among the Supervisors as to the form and content of an extension.
2. A closed session employment review of the County Administrative Officer was held November 10, 1998. From testimony, the Grand Jury determined no agreement was reached regarding the details of a contract extension.
3. A second closed session with the County Administrative Officer was held on December 8, 1998. The chairman was absent from this session. The four supervisors who were present at the closed session all testified they expected a draft contract would be returned at a later date for their review and approval, prior to execution.
4. On December 15, 1998, a contract extension was executed by the chairman and the County Administrative Officer. None of the other supervisors were aware of this action. Testimony to the Grand Jury revealed that no authority for the execution had been voted on during the closed session held December 8, 1998.
5. The two board members who left the Board of Supervisors on January 4, 1999. testified they had not seen the contract signed on December 15 until their interview with the Grand Jury on February 22, 1999. One of the current members of the Board of Supervisors who attended the December 8th meeting testified the first time she had seen the contract after the signing was during the week prior to the interview by the Grand Jury in late February 1999.

6. The revised contract as extended and signed on December 15, 1998, was received by the clerk of the Board of Supervisors on January 15, 1999. The Grand Jury learned from testimony that no vote had been taken concerning the contract extension during the December 8, 1998 closed session meeting.
7. The clerk of the Board of Supervisors testified she informed the current chairman of the December 15, 1998 contract within two to three days of its receipt on January 15, 1999. The current chairman publicly reported the execution of the contract on January 26, 1999, however there was no report of any vote as required by law. This was 42 days after the contract agreement was signed.
8. The Supervisors present at the December 8, 1998 closed session all testified they did not at any time vote approval of the contract as executed.
9. The county counsel testified he was never asked for any legal review on the contract or the process of execution.

CONCLUSIONS

1. The Grand Jury concluded from testimony that the then chairman of the Board of Supervisors acted without proper authority in signing the employment contract.
2. The one-month delay in notifying any member of the Board of Supervisors that the contract had been signed shows a disregard for proper procedure. The failure to report properly in public demonstrated a disregard for the public's right to know.
3. The failure to vote and publicly record that vote on the closed contract session indicates a breakdown of board discipline.
4. The Board of Supervisor's failure to consult with county counsel and to follow the requirements of the Brown Act for closed sessions demonstrated poor judgment.

RECOMMENDATIONS

1. The Grand Jury recommends the Nevada County district attorney determine if there has been any violation of the Brown Act.
2. The Board of Supervisors immediately and publicly implement new procedures that will eliminate the possibility of this type of situation occurring again.

REQUIRED RESPONSES

This report was released March 3, 1999 and the BOS responded as required by Penal Code.

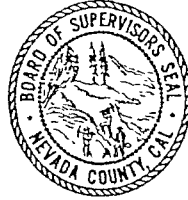
COUNTY OF NEVADA

STATE OF CALIFORNIA

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BOARD OF SUPERVISORS



Peter Van Zant, 1st District
Karen Knecht, 2nd District
Bruce Conklin, 3rd District
Elizabeth Martin, 4th District
Sam Dardick, 5th District

Cathy R. Thompson
Clerk of the Board

April 6, 1999

The Honorable Carl Bryan
Presiding Judge of the Nevada County Courts
Nevada County Court House
Nevada City CA 95959

Subject: Board of Supervisors' Responses to the 1998-1999 Nevada County Civil Grand Jury Interim Report, dated March 3, 1999.

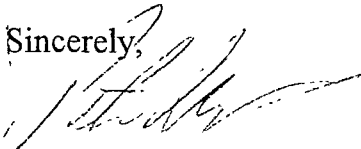
Dear Judge Bryan:

The attached responses by the Board of Supervisors to the 1998-1999 Nevada County Civil Grand Jury Interim Report, dated March 3, 1999, are submitted as required by California Penal Code 933(b).

These responses were approved by the Board of Supervisors at their regular meeting on April 6, 1999 and are believed to provide a full response to the Grand Jury's findings and recommendations.

The Board of Supervisors would like to thank the members of the 1998-1999 Grand Jury for their participation and effort in preparing the Interim Report.

Sincerely,


PETER VAN ZANT
Chairman of the Board

Attachment

NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO THE
1998-1999 CIVIL GRAND JURY INTERIM REPORT, DATED MARCH 3, 1999,
FINDINGS & RECOMMENDATIONS

I. GRAND JURY INVESTIGATION:

Execution of County Administrator's Contract

A. RESPONSE TO FINDINGS & RECOMMENDATIONS:

Findings:

1. The Grand Jury learned from testimony that discussions with the County Administrator Officer (CAO) and different Supervisors relating to an extension of the CAO's contract commenced in mid 1998. There was disagreement among the Supervisors as to the form and content of an extension.

Agree: Supervisors Dardick, Knecht, and Van Zant.

Neither agree nor disagree: Supervisors Martin and Conklin. (*)

2. A closed session employment review of the CAO was held November 10, 1998. From testimony, the Grand Jury determined no agreement was reached regarding the details of a contract extension.

Agree: Supervisors Dardick, Knecht, and Van Zant.

Neither agree nor disagree: Supervisors Martin and Conklin.

3. A second closed session with the CAO was held on December 8, 1998. The Chairman was absent from this session. The four Supervisors who were present at the closed session all testified they expected a draft contract would be returned at a later date for their review and approval, prior to execution.

Agree: Supervisor Van Zant

Partially Agree: Supervisor Knecht – her recollection is that there were more than two closed sessions in regard to the County Administrator's contract

Neither agree nor disagree: Supervisors Dardick, Martin, and Conklin.

4. **On December 15, 1998, a contract extension was executed by the Chairman and the CAO. None of the other Supervisors were aware of this action. Testimony to the Grand Jury revealed that no authority for the execution had been voted on during the closed session held December 8, 1998.**

Agree: Supervisors Dardick, Knecht, and Van Zant.

Neither agree nor disagree: Supervisors Martin and Conklin.

5. **The two Board members who left the Board of Supervisors on January 4, 1999 testified they had not seen the contract signed on December 15 until their interview with the Grand Jury on February 22, 1999. One of the current members of the Board of Supervisors who attended the December 8 meeting testified the first time she had seen the contract after the signing was during the week prior to the interview by the Grand Jury in late February 1999.**

Agree: Supervisor Knecht - with the second sentence.

Neither agree nor disagree: Supervisors Dardick, Martin, Conklin, and Van Zant.
Supervisor Knecht - with the first sentence.

6. **The revised contract as extended and signed on December 15, 1998, was received by the Clerk of the Board on January 15, 1999. The Grand Jury learned from testimony that no vote had been taken concerning the contract extension during the December 8, 1998 closed session meeting.**

Agree: Supervisor Knecht - with the second sentence.

Disagree: Supervisor Van Zant - with the second sentence as he recalls that a consensus or informal vote was taken.

Neither agree nor disagree: Supervisors Dardick, Martin, and Conklin. Supervisors Knecht and Van Zant - with the first sentence.

7. **The Clerk of the Board testified she informed the current Chairman of the December 15, 1998 contract within two to three days of its receipt on January 15, 1999. The current Chairman publicly reported the execution of the contract on January 26, 1999; however, there was no report of any vote as required by law. This was 42 days after the contract agreement was signed.**

Supervisor Dardick neither agrees nor disagrees with the first and third sentences. He partially agree with the second sentence as he heard the report but did not know that there had not been a vote previous to that moment.

Supervisor Conklin and Martin agree that the current Chairman publicly reported the execution of the contract on January 26, 1999. They neither agree nor disagree with the other events.

Supervisor Knecht and Van Zant neither agree nor disagree with the first sentence. They agree with the second and third sentence, although Supervisor Knecht questions the word "publicly" reported because it was vague.

8. **The Supervisors present at the December 8, 1998 closed session all testified they did not at any time vote approval of the contract as executed.**

Agree: Supervisors Knecht and Van Zant.

Neither agree nor disagree: Supervisors Dardick, Martin, and Conklin

9. **The County Counsel testified he was never asked for any legal review on the contract or the process of execution.**

Neither agree nor disagree: Supervisors Dardick, Martin, Conklin, Knecht, and Van Zant

Partially agree: Supervisor Knecht also partially agrees because the Board never asked for County Counsel's review and approval of the contract.

(Supervisors Martin and Conklin do not have personal knowledge of the facts that were alleged, and on that basis can neither agree or disagree with the findings related to the investigation.*

Recommendations:

1. **The Grand Jury recommends the Nevada County district attorney determine if there has been any violation of the Brown Act.**

The Brown Act (Government Code section 54960.1) allows a legislative body the ability to cure an alleged Brown Act violation.

On March 9, 1999, the Chairman of the Board appointed an ad hoc Board subcommittee of Supervisors Van Zant and Conklin to negotiate terms and conditions of a new

contract with the County Administrator. Following negotiations with the County Administrator, a draft contract was prepared, reviewed by County Counsel, and placed on the Board agenda for March 16, 1999 for discussion in Closed Session for labor negotiations and in Open Session for contract consideration. The contract signed March 16, 1999, was retroactive to January 1, 1999, thereby eliminating the now discarded contract

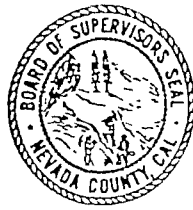
2. **The Board of Supervisors immediately and publicly implement new procedures that will eliminate the possibility of this type of situation occurring again**

The Board of Supervisors has adopted a policy by Resolution 99-121 (attached) for executing the contract of the County Administrator and other County officials appointed by the Board.

This policy was formally implemented on March 16, 1999 and will apply to all future contracts of County officials appointed by the Board.

B. OTHER RESPONSES REQUIRED:

None



RESOLUTION No. 99121

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

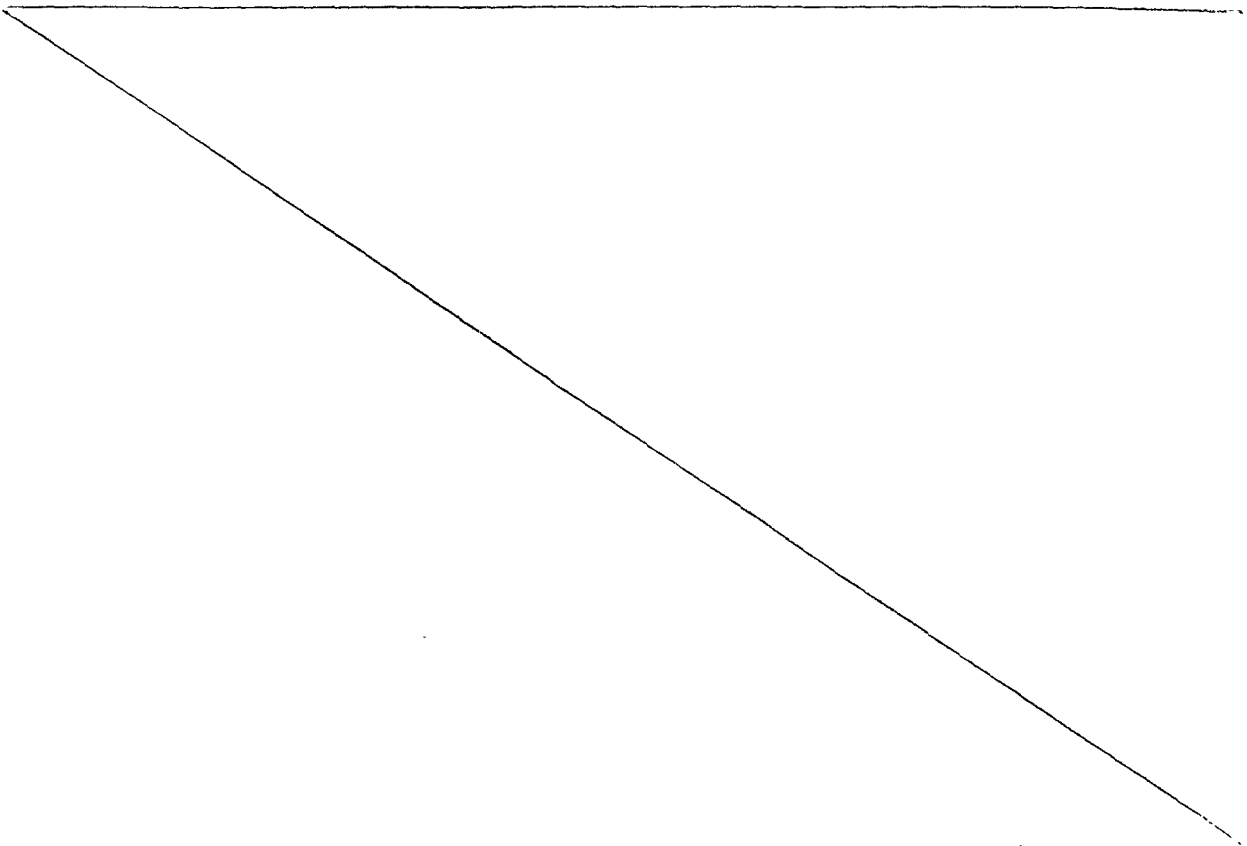
RESOLUTION ESTABLISHING A POLICY FOR EXECUTION OF EMPLOYMENT CONTRACTS FOR COUNTY OFFICIALS APPOINTED BY THE BOARD OF SUPERVISORS

WHEREAS, the Board of Supervisors recognizes the need to ensure that employment contracts of county officials appointed by the Board are properly executed according to Brown Act requirements, established procedures, and the public's right to know, and;

WHEREAS, the Board desires to establish a formal policy for execution of all such future contracts.

NOW, THEREFORE, BE IT RESOLVED, the Nevada County Board of Supervisors adopts the following policy for executing employment contracts for county officials appointed by the Board of Supervisors:

1. The Board of Supervisors will appoint an ad hoc Board subcommittee of two Supervisors, in consultation with County Counsel, to negotiate contract terms and conditions with the County official.
2. As needed, the Board will hold labor negotiations closed sessions with the subcommittee pursuant to Government Code section 54957.6 to review the Board's position and instruct the subcommittee.
3. The Board may additionally hold personnel closed sessions pursuant to Government Code section 54957 with the employee.
4. A contract for the County official will be prepared and reviewed by County Counsel.
5. The Board will give direction in Closed Session regarding the terms and conditions of the contract and when it will be placed on the Board meeting agenda for final action. The Clerk of the Board shall record any action or final direction.
6. The contract will be placed on the agenda as directed and the Board will consider and vote on it in Open Session.



PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 16th day of March, 19 99, by the following vote of said Board:

Ayes: Supervisors Peter Van Zant, Karen Knecht, Bruce Conklin, Elizabeth Martin, Sam Dardick
 Noes: None.

Absent: None.

Abstain: None.

ATTEST:

CATHY R. THOMPSON

Clerk of the Board

By: Cathy R. Thompson

[Signature]
 Chairman

DATE	COPIES SENT TO
3-18-99	Administration
	Personnel
	A-C
	Counsel
	Board of Supervisors
	Grand Jury