

Nevada County Grand Jury

Final Report with Responses

2012-2013



GRAND JURY
COUNTY OF NEVADA
Eric Rood Administration Center
950 Maidu Avenue
Nevada City, California 95959
Phone Number: 530-265-1730
Email: grandjury@nevadacountycourts.com

December 1, 2013

The Honorable Candace S. Heidelberger
Presiding Judge of the Nevada County Superior Court

The Honorable Thomas M. Anderson
Presiding Judge of the Grand Jury
Nevada County Superior Court
201 Church Street
Nevada City, California 95959

Dear Judge Heidelberger and Judge Anderson;

It is my pleasure to forward to you the enclosed consolidated Final Report from the 2012-2013 Nevada County Grand Jury. This consolidated version includes all specific subject reports issued by that Jury and all responses required. The individual reports and their responses were released and made available to public officials, the media and the general public as soon as they were approved and are also available at www.nevadacountycourts.com.

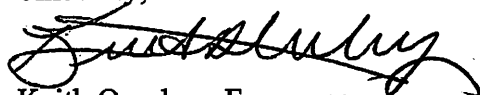
The Jury's review of the responses was limited to determining whether the response complied with the requirements for responses in California Penal Code section 933.05. This review was conducted by the successor Jury, due to the fact the responses were received after the close of the 2012-2013 Nevada County Grand Jury.

The final responses were also referred to committees of the 2013-2014 Nevada County Grand Jury for follow-up to ensure the actual implementation of recommendations. This consolidated Final Report completes our process of making reports and responses available to the public.

Copies of this consolidated Final Report will be placed on file with the Court Clerk, who will forward one copy to the California State Archivist. The Clerk of the Nevada County will also receive a copy. Additional copies will be placed in county libraries and made available to the media. The Jury, as required, will also send a copy to the University of California Government Studies Library in Berkeley, California.

In closing, the 2012-2013 Nevada County Grand Jury wishes to express our gratitude and appreciation to the staff of the Nevada County Superior Court for your valuable assistance and support.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Overbey", written in a cursive style.

Keith Overbey, Foreperson
Nevada County Grand Jury 2013-2014



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**MEMBERS OF THE 2012-2013
NEVADA COUNTY GRAND JURY**

Keith Overbey
Foreperson

Dan Gentile
Foreperson Pro-Tempore

Diana Beer
Secretary

Bud Springer
Sergeant-at-Arms

Doug Wight
Business Manager

Marilyn Boudourain
Patricia Brown
Charles "Chuck" Field
Jacqueline Finley
Iola Gold

Douglas Hastings
JoAnn Marie
Ron Metz
Robert Ogden

Linda Pryor
Kelly Reuss
Carolyn Roemelen
Mary Rosenberg
Kathleen Waldrum

RESPONSE REQUIREMENTS

Following are the pertinent excerpts from the California Penal Code concerning responses to a report of the Nevada County Grand Jury;

Section 933(c):

“No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.”

Section 933(d):

“As used in this section "agency" includes a department.”

Section 933.05(a):

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

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

Section 933.05(b):

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

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

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

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.”

Section 933.05(c):

“However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.”

The California Penal Code also requires that the Nevada County Grand Jury be available to the respondents for 45 days to clarify the recommendations of its report.

**CALIFORNIA PENAL CODE
(EXCERPT FOR RESPONDENTS)**

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

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

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

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

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department

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Waste Management Contract

**Nevada County Grand Jury Report with Responses
2012-2013**

2012-2013 Nevada County Grand Jury Report on the Waste Management Contract

Summary

In January of 2012, Nevada County entered into a twenty-year contract with Waste Management of Nevada County for management of the solid waste stream for unincorporated western Nevada County, including operation of the McCourtney Road and satellite transfer stations.

During the implementation of the contract there were several areas of public concern which the Nevada County Grand Jury elected to investigate.

The Nevada County Grand Jury found that the negotiation process and contracting were performed with a high degree of diligence and protection of the public interest, although there were areas of concern during the implementation phase.

Reasons for Investigation

Prompted by public response to a sharp increase in fees for Residential Yard Waste at the McCourtney Road Transfer Station (Transfer Station), the size of the trash containers provided to residential customers, and billing questions the Nevada County Grand Jury (Jury) conducted an investigation into the process of letting Nevada County's contract with Waste Management for the period of July 1, 2012 through June 30, 2032.

Pursuant to Sec. 925 of the California Penal Code the Grand Jury has the authority to investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county.

Background

Waste Management is a comprehensive waste and environmental services company in North America. Founded in 1894, the company is headquartered in Houston, Texas. The company's network includes 367 collection operations, 355 transfer stations, 273 active landfill disposal sites, 16 waste-to-energy plants, 134 recycling plants, 111 beneficial-use landfill gas projects and six independent power production plants. Waste Management offers environmental services to nearly 20 million residential, industrial, municipal and commercial customers in the United States, Canada, and Puerto Rico. With 21,000 collection and

transfer vehicles, Waste Management has the largest trucking fleet in the waste industry. Waste Management is a publicly traded corporation.

Board of Supervisors Resolution 12-052, "AWARD AND APPROVAL OF CONTRACT BETWEEN THE COUNTY OF NEVADA AND USA WASTE OF CALIFORNIA, INC. FOR COLLECTION, TRANSPORT, PROCESSING AND DISPOSAL OF SOLID WASTE, RECYCLABLES, GREEN WASTE, CONSTRUCTION AND DEMOLITION DEBRIS, AND HOUSEHOLD HAZARDOUS WASTE, AND OPERATION OF TRANSFER STATION FOR WESTERN NEVADA COUNTY", was approved on January 24, 2012 to take effect on July 1, 2012.

Subsequently, the Jury was asked to investigate certain provisions of the contract relating to fees and service level changes.

Procedures Followed

The Jury interviewed a number of county officials and Waste Management personnel who were involved in the negotiations and writing of the final contract as well as members of the public. The Jury received and reviewed the Nevada County Board of Supervisors (BOS) Resolution 12-052, approving the contract including the actual document and its various appendices.

Facts

- F.A.1.** On May 26, 2011, the BOS authorized the Department of Public Works to solicit requests for proposals for an exclusive franchise agreement related to the operations, collections, and recycling of the solid waste system in western Nevada County, including operation of the Transfer Station.
- F.A.2.** Four proposals were received.
- F.A.3.** The selection committee consisting of representatives of Nevada County (County), including the Department of Public Works, Solid Waste Program Management, Purchasing, Community Development Agency, Solid and Hazardous Waste Commission, and the Chief Executive Office identified the top two proposals.
- F.A.4.** Interviews were conducted and USA Waste of California, Inc., dba Waste Management of Nevada County (WM) was unanimously selected as the firm with which the County would enter into negotiations.
- F.A.5.** A contract was negotiated for an exclusive franchise agreement with WM to provide collection, transport, processing, and disposal of solid waste, green waste, construction and demolition debris (C&D), and household hazardous waste, and operation of the Transfer Station for western Nevada County through June 30, 2032.

- F.A.6.** On January 24, 2012 the BOS passed Resolution 12-052, awarding and approving the contract.
- F.A.7.** The County granted WM the exclusive right to collect, transport, and dispose of all solid waste materials and recycling materials unless exempted from collection.
- F.A.8.** A Franchise Fee of 12% of all revenues collected by WM as service fees will be paid to the County, with certain exceptions as stipulated in the contract.
- F.A.9.** A Host Fee will be paid to the County by WM for transfer services, excluding recycling and green waste. WM shall pay a Host Fee on all solid waste and C&D received or processed at the Transfer Station or satellite transfer stations.
- F.A.10.** WM provides carts for waste, recycling, and green waste collection.
- F.A.11.** Four waste collection cart sizes are available for residential customers; 20, 35, 64, or 96 gallon.
- F.A.12.** Standard residential service is for one 35 gallon cart.
- F.A.13.** There is an option for low volume customers to utilize an "on call" service level, having waste collected only when needed.
- F.A.14.** WM provides food waste recycling service for commercial customers and multi-family dwellings.
- F.A.15.** Rate changes have been implemented as shown in Attachments I through III.
- F.A.16.** WM is phasing in replacement of its fleet of diesel trucks with trucks powered by compressed natural gas.
- F.A.17.** Waste from the Transfer Station is transported to a WM landfill facility in Nevada.
- F.A.18.** The contract for transport was awarded by WM to a local trucking company.
- F.A.19.** WM has set aside the sum of \$5.6 million to be applied to either construction of a new transfer station at a location yet to be determined, or the renovation of the Transfer Station.
- F.A.20.** WM agreed to submit a proposal no later than December 31, 2012 for construction of a new transfer station. This was received on time.
- F.A.21.** The County has 120 days to respond to the proposal.
- F.A.22.** If the County and WM agree on the construction of a new facility, the current Transfer Station will be replaced.
- F.A.23.** As specified in *California Public Resources Code* (PRC) Section 41780, counties are subject to a diversion mandate that at least 50% of solid waste (as defined in the PRC) generated in the county be source-reduced, recycled or composted, and, as more specifically provided in PRC Section 41780.01, the county is subject to a goal

that not less than 75% of solid waste generated in the County be source reduced, recycled, or composted by the year 2020.

- F.A.24.** Contractually, WM will bear primary responsibility for meeting required solid waste diversion goals.
- F.A.25.** Contractually, WM will report to the County annually a summary of the previous year's activities, including but not limited to, service begun or discontinued during the year and the number of customers for each service level and a revenue statement setting forth franchise fees and host fees and the method of calculation.
- F.A.26.** Contractually, WM shall submit to the County monthly reports of the amount/weight of waste and materials collected, transported, disposed, and recycled. All monthly reports shall be submitted to the County by the 20th day of the following month.
- F.A.27.** Contractually, there are potential rate changes allowable based on certain economic conditions, including changes to the Consumer Price Index and fuel costs.
- F.A.28.** Public notification of the new contract included neighborhood flyers attached to garbage cans at least three times. There were approximately 10,000 flyers handed out to the public during the notification campaign.
- F.A.29.** Costs of public notification were paid by WM.
- F.A.30.** Additional public notification was via the newspaper, radio notification and direct mail campaign to existing users and flyers attached to the residential containers. The flyers addressed the cost basis for the standard container to the 96 gallon container. There is also a fourteen page supplement to phone directories on the recycling and collection process.
- F.A.31.** Calls from customers during the rollout period went to a call center in Sacramento. During the rollout, the number of telephone lines needed to be increased due to call volume.
- F.A.32.** According to County officials, there was a period of approximately three weeks of failure by WM to adequately handle complaints. Most calls were related to the size of carts delivered to customers.
- F.A.33.** Solid waste collection contracts in the cities of Grass Valley and Nevada City have been negotiated with WM. Implementation has been completed.

Findings

- F.I.1.** The County conducted thorough due diligence in the selection of WM as the exclusive provider of solid waste disposal and recycling in the unincorporated areas of Western Nevada County.
- F.I.2.** Rates at the Transfer Station are unchanged with the exception of White Goods (appliances) or Yard and Wood Waste, which have increased.
- F.I.3.** Residential Yard Waste collection rates have increased.
- F.I.4.** Residential Solid Waste collection rates have slightly decreased.
- F.I.5.** Commercial and Multi-family rates are unchanged.
- F.I.6.** Despite public notification of the process there were a large number of complaints, mainly around the changes in service.
- F.I.7.** The Jury found the County and WM carried out an information campaign prior to implementation of the changes in service.
- F.I.8.** The Jury also found there were many cases where the public did not receive or understand the changes.
- F.I.9.** The Jury found the County and WM failed to sufficiently prepare for the volume of calls received during the implementation of changes, resulting in long waits for many customers.

Recommendations

- R.1.** The Jury recommends when future changes in rates or service levels are approved, the County and WM should identify procedures to better inform the public and prepare for the volume of customer calls anticipated with the experience gained from this change.

Responses

None Required

Attachment 1		
Residential Service Fee Changes		
Service Type	Before July 1, 2012	After July 1, 2012
Residential MSW Service		
20 gallon can/cart	\$13.15	\$13.26
35 gallon can/cart	\$17.58	\$16.94
2-32 gallon cans	\$25.03	\$0.00
64 gallon cart	\$25.03	\$24.27
96 gallon cart	\$36.52	\$36.39
Residential Yard Waste Service		
64 gallon cart	\$3.86	\$5.11
96 gallon cart	\$4.05	\$5.30
Residential Recycling Service		
All sizes with trash service	\$0.00	\$0.00
1 -35 gallon (no trash service)	\$2.17	\$7.50
1-96 gallon (no trash service)		\$7.50

Attachment 2

Commercial and Multi-Family Fee Changes

Service Type	Before July 1, 2012	After July 1, 2012
Commercial and Multi-family Bin Service - 2-yard bin		
One collection/week	\$249.61	\$249.61
Two collections/week	\$426.51	\$426.51
Three collections/week	\$613.83	\$613.83
Four collections/week	\$806.37	\$806.37
Five collections/week	\$995.75	\$995.75
Six collections/week	\$1,187.29	\$1,187.29
Commercial and Multi-family Bin Service - 3-yard bin		
One collection/week	\$319.86	\$319.86
Two collections/week	\$544.16	\$544.16
Three collections/week	\$775.74	\$775.74
Four collections/week	\$1,001.08	\$1,001.08
Five collections/week	\$1,225.55	\$1,225.55
Six collections/week	\$1,470.53	\$1,470.53

Commercial and Multi-family Bin Service - 4-yard bin		
One collection/week	\$408.97	\$408.97
Two collections/week	\$706.49	\$706.49
Three collections/week	\$1,042.71	\$1,042.71
Four collections/week	\$1,371.60	\$1,371.60
Five collections/week	\$1,704.66	\$1,704.66
Six collections/week	\$2,019.00	\$2,019.00
Commercial and Multi-family Bin Service - 6-yard bin		
One collection/week	\$504.63	\$504.63
Two collections/week	\$870.09	\$870.09
Three collections/week	\$1,275.04	\$1,275.04
Four collections/week	\$1,712.21	\$1,712.21
Five collections/week	\$2,075.50	\$2,075.50
Six collections/week	\$2,472.12	\$2,472.12
Commercial and Multi-family Can Service		
1-32 gallon can	\$17.22	N/A
2-32 gallon cans	\$24.58	N/A
35 gallon cart	\$17.22	\$17.22
96 gallon cart	\$36.67	\$36.67

2-yard bin, semi-weekly collection	\$190.65	\$190.65
Commercial Recycling		
All sizes with trash service	\$0.00	\$0.00
Temporary Bin and Debris Box Service		
2-yard bin - refuse	\$71.37	\$71.37
3-yard bin - refuse	\$91.21	\$91.21
4-yard bin - refuse	\$115.44	\$115.44
6-yard bin - refuse	\$149.50	\$149.50
20 to 40-yard bin - refuse	\$230.80	\$230.80
20 to 40-yard bin C&D	\$230.80	\$230.80
20 to 40-yard bin - metals	\$202.84	\$202.84
20 to 40-yard bin -wood	\$202.84	\$202.84

Attachment 3		
McCourtney Road Transfer Station Fee Changes		
Service Type	Before July 1, 2012	After July 1, 2012
Trash Only		
2 cans	\$6.00	\$6.00
3 cans	\$6.50	\$6.50
4 cans	\$7.00	\$7.00
5 cans	\$7.50	\$7.50
6 cans	\$8.00	\$8.00
Per Ton	\$70.00	\$70.00
Trash Only -Non County Resident		
Per Ton	\$140.00	\$140.00
Trash Containing Recycling		
2 cans	\$10.00	\$10.00
3 cans	\$10.50	\$10.50
4 cans	\$11.00	\$11.00
5 cans	\$11.50	\$11.50
6 cans	\$12.00	\$12.00
Per Ton	\$80.00	\$80.00

C&D		
Per Ton	\$59.50	\$59.50
Tires		
Up to 16" without rim	\$2.00	\$2.00
17" to 17.5" without rim	\$6.00	\$6.00
Up to 16" with rim	\$9.00	\$9.00
17" to 17.5" with rim	\$18.00	\$18.00
Tires greater than 17.5" can be recycled at Les Schwab		
White Goods		
Refrigerated	\$20.00	\$30.00
Non - refrigerated	\$0.00	\$25.00
Yard & Wood Waste		
Cubic Yard	\$3.38	\$9.25
Minimum Charge	\$4.75	\$10.75
Mattresses/Furniture		
Single/Double without box spring	\$6.00	\$6.00
Single/Double with box	\$7.00	\$7.00

spring		
Queen/King without box spring	\$6.50	\$6.50
Queen/King with box spring	\$8.00	\$8.00
Couch	\$7.00	\$7.00
Hide a bed	\$7.50	\$7.50
Propane Tanks		
Less than 5 gallons	\$0.00	\$0.00
5 to 25 gallons	\$10.00	\$10.00

County Government

2012 Nevada County General Election

Nevada County Grand Jury Report with Responses
2012-2013

November 2012 Presidential General Election in Nevada County

Summary

The Nevada County Grand Jury is pleased to report to the citizens of Nevada County that the November 6, 2012 Presidential General Election in Nevada County ran smoothly, problems were minor, and the election was conducted effectively.

Members of the Nevada County Grand Jury visited most of the 56 precincts in Nevada County on Election Day. During interviews conducted with poll workers it was determined that some precincts had difficulty in setting up the voting equipment, some precincts had voting equipment failures and some precincts were crowded. In most cases poll workers who had difficulty with setting up their voting equipment were able to shut them down and re-start the set-up process with assistance from the Field Elections Deputy or the Elections Office. In cases of voting equipment failures the Field Elections Deputy was able to replace the equipment which failed.

Several members of the Nevada County Grand Jury and poll workers commented that the class room at the Rood Center is too crowded. The Grand Jury recommends the training sessions be conducted in a larger venue.

The Grand Jury also followed up on the recommendations of the 2010-11 Grand Jury Report and found all had been implemented.

Reasons for Investigation

The Nevada County Grand Jury (Jury), exercising its oversight responsibilities pursuant to California Penal Code Section 925, conducted an investigation of the November 6, 2012 Presidential General Election (Election).

Background

The Nevada County Elections Office has the responsibility to select polling places in accordance with the California Election Codes. Each polling place contains one or more precincts. Each precinct is staffed by a Precinct Board (poll workers), consisting of an Inspector and two or more Judges. The Inspector has overall responsibility for the election activities of that precinct. All poll workers are volunteers. They are compensated for their time on Election Day and for training sessions.

Poll workers' duties include

- knowing and enforcing State Code and regulations,
- knowing the voting process,
- insuring ballot security,
- instructing voters in the proper operation of electronic voting equipment,
- answering voters' questions,
- troubleshooting equipment problems.

Procedures Followed

The Jury

- interviewed staff of the Nevada County Elections Office prior to and after the election,
- attended training for poll workers,
- interviewed Inspectors and Judges,
- had observers at most of the 56 precincts on Election Day,
- reviewed the 2010-11 Nevada County Grand Jury report "November 2010 General Election in Nevada County".

Facts

- F.A.1.** Training is required for all poll workers.
- F.A.2.** Some poll workers did not attend the required training, but had recent election experience.
- F.A.3.** Jury members attended poll worker training classes.
- F.A.4.** The poll worker training at the Rood Government Center was conducted in the Providence Mine Room, a long narrow room.
- F.A.5.** Some training sessions were overcrowded as observed by Jury members.

- F.A.6.** The County Elections Office has updated existing training modules and developed a comprehensive hands-on training program to simulate the operations of a precinct on Election Day.
- F.A.7.** Several of the training modules included an opportunity to practice on the actual equipment.
- F.A.8.** Check lists to set up each precinct were provided, including an *Opening Flip Book* guide with detailed instructions on operations and equipment set-up.
- F.A.9.** Jury members observed that some poll workers did not practice equipment set-up during the training classes.
- F.A.10.** Jury members observed that the instructors did not ensure that all trainees participated in the equipment practice.
- F.A.11.** Voting equipment could not be set up at several precincts without a call to the Field Elections Deputy (FED) or to the Elections Office.
- F.A.12.** There were several voting equipment failures.
- F.A.13.** Jury members visited some precinct locations and observed them to be inadequate in terms of efficient space allocation.
- F.A.14.** New polling place locations are surveyed in advance for compliance with the Americans with Disabilities Act (ADA) by County Elections employees to ensure that the polling places meet ADA requirements.
- F.A.15.** Once a precinct has been established as compliant there is no further ADA survey made.
- F.A.16.** Poll worker evaluation surveys are mailed by the Elections Office to all poll workers six to eight weeks after the elections.
- F.A.17.** Jury members reviewed a sampling of the poll worker evaluation surveys and determined the interviews with the same poll workers differed from their written surveys.
- F.A.18.** The 2010-11 Nevada County Grand Jury recommended the following:
- “The Nevada County Clerk Recorder should direct staff to include the following with the Vote-by-Mail ballots:
- Instructions for replacement of spoiled or lost Vote-by-Mail ballots for those instances when it is too late to use the U.S. Postal Service.

- Instructions for Vote-by-Mail voters on how and where to vote in person.
- The phone number of the Elections Office on the Vote-by-Mail envelope.”

Findings

- F.I.1.** The Jury found the crowded conditions of the room used for training resulted in ineffective training outcomes.
- F.I.2.** The Jury found not all instructors ensured that every attendee received hands-on equipment training.
- F.I.3.** After initial set-up, some equipment did not function properly.
- F.I.4.** The Jury found that failure on the part of some poll workers to refer to check lists and the *Opening Flip Books* resulted in some equipment apparently not functioning properly.
- F.I.5.** The Jury found when these same poll workers called for assistance and were told to follow instructions, the equipment functioned normally.
- F.I.6.** Voting equipment that had actual technical malfunctions was replaced by the FED or the Elections Office as necessary.
- F.I.7.** Jury members found that inadequate space hampered efficient operations in several polling places.
- F.I.8.** The Jury found the lengthy interval between Election Day and the actual mailing date of the poll workers evaluation surveys sent out by the Elections Office was too long to ensure accurate results.
- F.I.9.** The Jury believes that including the poll workers evaluation surveys in the set-up packages and requiring prompt completion and return would result in more useful data.
- F.I.10.** In following up on the 2010-11 Nevada County Grand Jury Final Report the current Jury found
- instructions have been included in the Sample Ballot for replacement of spoiled or lost Vote-by-Mail ballots for those instances when it is too late to use the U.S. Postal Service,
 - instructions have been included for Vote-by-Mail voters on how and where to vote in person,

- the phone number of the Elections Office has been included on the Vote-by-Mail envelope.

Recommendations

R.1. The Nevada County Clerk Recorder should direct staff to

- identify a larger venue to more efficiently accommodate the number of trainees per training session,
- increase the number of training classes given to the poll workers with fewer numbers of trainees in each class,
- require the instructors to verify with each precinct team that they can demonstrate their competence in setting up the equipment before leaving the training class,
- make every effort to relocate those precincts with crowded conditions to a location with more floor space before the next election,
- include poll worker evaluation surveys with the precinct kits and require completion by the end of their shifts.

Responses

Nevada County Clerk-Recorder: Date: July 30, 2013



Nevada County Clerk Recorder/ Registrar of Voters

County Clerk - Recorder
950 Maidu Avenue, Suite 210
Nevada City, CA 95959
Phone: (530) 265-1221
Fax: (530) 265-9842
mynevadacounty.com/nc/recorder

Gregory J. Diaz
County Clerk - Recorder

Gail Smith
Assistant County Clerk-Recorder

County Elections
950 Maidu Avenue, Suite 250
Nevada City, CA 95959
Phone: (530) 265-1298
Fax: (530) 265-9829
mynevadacounty.com/nc/elections

July 24, 2013

The Honorable Thomas M. Anderson
Presiding Judge of the Grand Jury
Nevada County Superior Court
201 Church Street
Nevada City, California 95959

RESPONSE TO THE MAY 31, 2013 GRAND JURY REPORT: NEVADA COUNTY PRESIDENTIAL ELECTION-NOVEMBER 2012

Dear Judge Anderson,

As required by California Penal Code Section 933, the Clerk-Recorder hereby submits his response to the 2012 Presidential Election in Nevada County, as requested by the members of the Grand Jury.

FINDINGS:

1. The Jury found the crowded conditions of the room used for training resulted in ineffective training outcomes.

Partially Agree:

The space that was available resulted in crowded conditions; however, the training outcome was successful as reflected in Election Day performance.

2. The Jury found not all instructors ensured that every attendee received hands-on equipment training.

Agree

3. After initial set-up, some equipment did not function properly.

Agree

4. The Jury found that failure on the part of some poll workers to refer to check lists and the *Opening Flip Books* resulted in some equipment apparently not functioning properly.

Agree

5. The Jury found when these same poll workers called for assistance and were told to follow instructions, the equipment functioned normally.

Agree

6. Voting Equipment that had actual technical malfunctions was replaced by the FED or the Elections Office as necessary.

Agree

7. Jury members found that inadequate space hampered efficient operations in several polling places.

Agree

8. The Jury found the lengthy interval between Election Day and the actual mailing date of the poll workers evaluation surveys sent out by the Elections Office was too long to ensure accurate results.

Agree

9. The Jury believes that including the poll workers evaluation surveys in the set-up packages and requiring prompt completion and return would result in more useful data.

Agree

10. In following up on the 2010-11 Nevada County Grand Jury Final Report the current Jury found
- Instructions have been included in the Sample Ballot for replacement of spoiled or lost Vote-by-Mail ballots for those instances when it is too late to use the U.S. Postal Service,
 - Instructions have been included for Vote-by-Mail voters on how and where to vote in person,
 - The phone number of the Elections Office has been included on the Vote-by-Mail envelope

Agree

RECOMMENDATIONS:

R.1: The Nevada County Clerk Recorder Should Direct Staff to:

- R.1.1. Identify a larger venue to more efficiently accommodate the number of trainees per training session.

The recommendation will be implemented, beginning with the June 2014 Poll Worker Training.

- R.1.2. Increase the number of training classes given to the poll workers with fewer Numbers of trainees in each class.

The recommendation will not be implemented because it is not warranted or is not reasonable.

By securing a larger facility to accommodate our training needs we hope to decrease the number of classes and increase the number of trainers at each class to ensure effective training.

- R.1.3. Require the instructors to verify with each precinct team that they can demonstrate their competence in setting up the equipment before leaving the training class.

The recommendation will be implemented, beginning with the June 2014 Poll Worker Training.

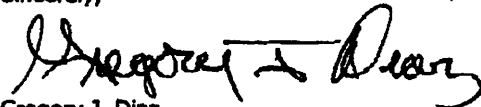
- R.1.4. Make every effort to relocate those precincts with crowded conditions to a location with more floor space before the next election.

The recommendation will be implemented for the June 2014 Election.

- R.1.5. Include poll worker evaluation surveys with the precinct kits and require completion by the end of their shifts.

The recommendation will be implemented in June 2014 Election.

Sincerely,



Gregory J. Diaz
Nevada County Clerk-Recorder/
Registrar of Voters

Law Committee

Nevada County Courthouse Holding Facility

Nevada County Grand Jury Report with Responses
2012-2013

Nevada County Courthouse Holding Facility

Summary

The replacement/remodel of the Nevada County Courthouse in Nevada City has gone from being an approved project to being placed on indefinite delay. The California Penal Code requires the Nevada County Grand Jury to annually inspect the holding facility located in the Nevada County Courthouse as to its condition and management.

Although the holding facility was determined to be adequate, the Nevada County Grand Jury found two areas of concern regarding safety of inmates, court and county employees, and independent contractors. A previous Nevada County Grand Jury report issued in 2010-11 identified the need for additional surveillance cameras in the parking garage of the facility. The response to that report stated the California Superior Court did not have the funding to accommodate the recommendation. The 2012-13 Nevada County Grand Jury has determined the cost would be minor, given the need to protect those using the facility, and the cost would be shared by Nevada County and the California Superior Court. The Nevada County Grand Jury also found that no formalized security training is provided to court and county personnel.

The Nevada County Grand Jury recommends that these areas of concern be addressed promptly by both the Nevada County Sheriff and the Nevada County Superior Court.

Reasons for Investigation

California Penal Code Section 919(b) requires: "The grand jury shall inquire into the condition and management of the public prisons within the county." The Nevada County Grand Jury (Jury) defines public prisons as any adult or juvenile correction or detention facility within the county.

Background

The Nevada County Courthouse (Courthouse) has occupied the present location since 1855. The current courthouse was completed in 1865, replacing the previous one destroyed by fire. In 1900, the building was remodeled and in 1936-37, an extensive renovation of the building was done under the depression-era Works Project Administration (WPA). The courthouse annex was added in 1963. It housed the county jail until the building of the Wayne Brown Correctional Facility in 1992 and still houses the court holding facility. The Courthouse is

jointly owned by the Administrative Office of the Courts (AOC) of the State of California and Nevada County.

The Jury is aware that the AOC plans to replace or remodel the Courthouse at some time in the future. That project has been placed on indefinite delay due to lack of funding.

The 2010-11 Jury issued a report on the holding facility which recommended a number of changes regarding security of inmates, courthouse employees, and the public.

Procedures Followed

The Jury inspected the holding facility at the Courthouse on August 16, 2012 and interviewed staff. The Jury also interviewed members of the court staff and County Facilities Management. The Jury also verified that recommendations agreed to by the Nevada County Sheriff (Sheriff) subsequent to the 2010-11 report had been implemented.

Facts

- F.A.1.** The fenced and gated area, commonly known as a sally port, allows inmates to be loaded and unloaded in a secure area before being taken to the holding cells.
- F.A.2.** The 2010-11 Jury recommended that the Sheriff should direct staff in the proper use of the sally port for loading and unloading of all inmates.
- F.A.3.** In-custody inmate movement between the holding cells and the courtrooms takes place in unsecured public corridors.
- F.A.4.** The 2010-11 Jury recommended that the Sheriff should direct staff to clear individuals from hallways when inmates are moved to courtrooms.
- F.A.5.** The parking garage is used by Sheriff's personnel, court and county employees, and independent contractors.
- F.A.6.** There are surveillance cameras installed throughout the Courthouse and the parking garage which are monitored by Sheriff's personnel.
- F.A.7.** The surveillance cameras installed in the parking garage do not provide viewing of all sections of the garage.
- F.A.8.** The 2010-11 Jury recommended that additional cameras be installed in the parking garage to ensure the safety of both Sheriff's personnel and court employees.
- F.A.9.** The recommendation for additional cameras was not implemented due to the lack of funding through the AOC.
- F.A.10.** Nevada County Facilities Management provided the Jury with an estimate of \$6400.00 to install three additional surveillance cameras in the parking garage.

- F.A.11.** Costs for additional cameras in the parking garage would be shared by the County and the courts, through a formula based on their percentage of usage of the garage space.
- F.A.12.** The Chief Executive Officer of the Superior Court is responsible for security throughout the facility.
- F.A.13.** No formalized security awareness training is provided to court and county employees.
- F.A.14.** Although the Superior Court is not required to respond to a Jury report, a representative of the Superior Court indicated that a response would be provided.

Findings

- F.I.1** The sally port is now being properly used by staff.
- F.I.2** Staff is now clearing individuals from hallways when inmates are moved to and from courtrooms.
- F.I.3** The cost of installing additional surveillance cameras is justifiable when personal safety is at stake.
- F.I.4** The lack of formal security awareness training poses a potential risk to personnel.
- F.I.5** The inability to monitor all sections of the parking garage endangers those using the garage.

Recommendations

- R.1.** The Nevada County Sheriff should promptly coordinate with the Nevada County Superior Court to provide additional surveillance cameras in the parking garage.
- R.2.** The Chief Executive Officer of the Superior Court should ensure that all personnel receive formalized security awareness training.

Responses

Nevada County Sheriff: Date: July 30, 2013

Nevada County Superior Court: Date: July 30, 2013

**NEVADA COUNTY
SHERIFF'S OFFICE**



KEITH ROYAL
SHERIFF/CORONER
PUBLIC ADMINISTRATOR

June 18, 2013

The Honorable Thomas M. Anderson
Presiding Judge of the Grand Jury
201 Church Street
Nevada City, Ca. 95959

RE: Response to 2012-2013 Nevada County Courthouse Holding Facility Grand Jury Report

Dear Honorable Judge Anderson:

In response to the Grand Jury Report dated May 28, 2013 on the Nevada County Courthouse Holding Facility.

FINDINGS:

1. The sally port is now being properly used by staff.

Agree

The sally port is being used to transport prisoners safely and securely from law enforcement vehicles to the interior of the courthouse holding facility.

2. Staff is now clearing individuals from hallways when inmates are moved to and from courtrooms.

Agree

Sheriff's Office personnel ask all non-essential personnel to clear the hallways when moving inmates to and from the courtrooms.

3. The cost of installing additional surveillance cameras is justifiable when personal safety is at risk.

Agree

Added Surveillance cameras on the exterior of the building could assist Sheriff's Office personnel in monitoring the area outside of the courthouse facility.

5. The inability to monitor all sections of the parking garage endangers those using the garage.

Partially Agree

While the ability to visually observe the parking area would increase the security of the garage, the area is accessed through security roll up doors and that access is maintained by the courthouse staff.

Should funding become available in the future, the Sheriff's Office would consider working with the AOC in a cost sharing upgrade and/or installation of security cameras.

RECOMMENDATIONS:

1. The Nevada County Sheriff's Office should promptly coordinate with the Nevada County Superior Court to provide additional surveillance cameras in the parking garage.

When a funding source becomes available through the AOC, the Sheriff's Office will work with courthouse personnel in the feasibility and installation of surveillance cameras in the courthouse parking garage.

The Sheriff's Office would like to thank the members of the 2012-2013 Grand Jury for their participation and effort in preparing their reports. We are committed to providing the highest level of safety and security to our employees, the public, and inmates.

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Royal', with a long horizontal line extending to the right.

Keith Royal
Sheriff-Coroner

SUPERIOR COURT OF THE STATE OF CALIFORNIA
County of Nevada

CANDACE S. HEIDELBERGER,
Presiding Judge



G. SEAN METROKA,
Court Executive Officer

201 Church Street
Nevada City, CA 95959
(530) 265-1311

July 11, 2013

Grand Jury, County of Nevada
Attn: Keith Overbey, Foreperson
950 Maidu Avenue
Nevada City, CA 95959

Dear Mr. Overbey:

As requested in the 2012-2013 Nevada County Grand Jury Report on the subject of the Nevada County Courthouse Holding Facility, the following response is submitted.

Findings

- F.I.1** Agree
- F.I.2** Agree
- F.I.3** Partially agree. We agree that the expense of installing additional surveillance cameras may be justified by the potential increase in personal safety. This finding does not address the availability or source of funding necessary to augment the current surveillance camera system but simply states the expense "is justifiable". If funding is not available, justifying the expense will not solve this problem.
- F.I.4** Disagree. Implementing formal security awareness training will surely be beneficial to those working in the courthouse. However, the lack of such training does not pose a potential risk, or otherwise increase risk, to court personnel.
- F.I.5** Partially agree. Improved camera coverage of the courthouse garage would help to make the garage a safer place. We believe this Finding's assertion that the lack of improved coverage "endangers those using the garage" is incorrect. Regardless of the source of the danger, the additional cameras will only reduce the response time in addressing potential danger, not prevent the danger in the first place.

Recommendation

- R.1** Disagree. The current camera system was purchased by the Administrative Office of the Courts (AOC) and is the sole property of the Court. While the Court will coordinate any system changes and camera placement with the Nevada County Sheriff's Department, we do not expect that the County will contribute funds to purchase additional cameras for a system that they do not own.

The Court has submitted a funding request to the AOC to expand the current camera system such that the garage will be adequately monitored and surveillance of Court Holding and other (currently inadequately monitored) court spaces will be improved. We expect to have an answer to our request by December 2013. If our request is approved, we anticipate having the system expansion completed early in 2014. If our request is denied, we will take no further action until we can submit another request in fiscal year 2014-2015 or another source of funding becomes available.

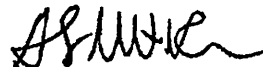
- R.2 Partially agree. The Court Executive Officer will ensure that appropriate security awareness training is developed and disseminated during fiscal year 13-14. The Court can only ensure that court employees will receive the training as we do not have the authority to impose training on County employees.

In addition to our responses to the Grand Jury's findings and recommendations listed above, we feel compelled to address Fact F.A.10 in the report. We have received and analyzed the estimate provided by Nevada County Facilities Management referred to in F.A.10. This proposal includes three cameras and one digital video recorder (DVR). This equipment is not compatible with our current camera system and would necessarily be a stand-alone system which would require separate monitoring by security personnel. The current system is integrated and consists of 48 cameras and three DVRs (between the Nevada City and Truckee courthouses) which can all be monitored simultaneously from a single workstation in various locations throughout the Nevada City and Truckee courthouses. If we add a stand-alone camera system, it will require separate monitoring and will be limited to a single monitoring station. The restrictions this would place on our limited security staff, assigned to monitor court surveillance cameras, would make the new cameras ineffective for lack of personnel to consistently monitor them. Despite the report's suggestion to the contrary, we do not agree with the Grand Jury that this proposal is a viable solution to the problem.

Respectfully submitted,



Candace S. Heidelberger
Presiding Judge



G. Sean Metroka
Court Executive Officer

Schools and Libraries

Charter Schools: What Are They?
A Report on Western Nevada County Charter
Schools

Nevada County Grand Jury Report with Responses
2012-2013

Charter Schools: What Are They?

A Report on Western Nevada County Charter Schools

Summary

The 2012-2013 Nevada County Grand Jury conducted a review of the 14 schools that have charters in Western Nevada County.

Even after several decades in existence, charter schools still remain a mystery to many in California, including here in Nevada County. Many individuals are not aware that charter schools are public schools. Charter schools have been freed of many requirements and regulations. In return for more flexible scholastic requirements, charter schools are expected to achieve specific academic results within three to five years.

The purpose of the report is two-fold

- to clarify confusion surrounding the purpose, structure, and funding of the county's charter schools,
- to provide the local public with basic information about each specific charter school, highlighting the similarities and differences between the sites.

Using this information on charter schools, the public can understand what charter schools are and are not. Those families personally interested in charter schools will also gain a better understanding of each school and its offerings.

Reason for Investigation

To clarify charter schools' functions and requirements in Nevada County, the Nevada County Grand Jury (Jury) looked into the currently active charter schools to better understand their similarities and differences, their histories and missions. The intent was to present this information to the public. This report's purpose is to educate the community about charter schools, and to help parents make more knowledgeable academic choices for their children.

Pursuant to California Penal Code Section 933.5, the Grand Jury has the authority to investigate public schools within the state.

Background

Charter schools first emerged in the 1990s as an innovative alternative education reform concept, based on many parents' dissatisfaction with traditional public school systems. Believing that expanding and personalizing teaching methods could result in better educated students, charter schools were started by parents, teachers and community organizations throughout California, including Nevada County. The goal of charter schools was to reinvent and revitalize public education.

The United States Government passed the Charter School Act in 1992; California approved the Charter School Act the same year, becoming the second state, after Minnesota, to enact the Charter School Legislation. In California there are currently 1,065 charter schools which have an enrollment of 484,000 students (see Appendix, #1).

A charter school is started with a petition that must contain a required number of signatures and must address sixteen required elements (see Appendix, #2). The proposal must also include four conditions (see Appendix, #3), three prohibitions (see Appendix, #4), the proposed location of the charter school, and a multi-year budget. Within thirty calendar days of receipt of the complete petition, the granting authority board must hold a public hearing. Within sixty calendar days of receipt of the complete petition, the granting authority must either grant or deny the charter, though time constraints can be extended by mutual agreement.

Charter schools are not allowed to charge tuition. Nevada County charter schools receive funding from the state, the Nevada County Office of Education, and their individual school districts based on student enrollment. On average, according to The Center for Educational Reform, charter schools are funded at 61% of their traditional school counterparts, averaging \$6,585 per student per year. This contrasts with the \$10,771 per student per year spent by traditional public schools.

Procedures Followed

Of the 14 schools chartered in Western Nevada County, the Jury visited 11 local campuses:

- Bitney College Prep High School
- Chicago Park Charter School
- Forest Charter School
- Grass Valley Charter School
- Nevada City Charter School
- Nevada City School of the Arts

- Sierra Montessori Academy
- Twin Ridges Home Study Charter School
- Union Hill Charter School
- Vantage Point Charter School
- Yuba River Charter School

The Jury interviewed school staff, viewed the campus locales and facilities, and reviewed documentation regarding each school's history, development, academic offerings, and budgets. Additionally, for three charter schools without campuses in Nevada County, the Jury conducted research through their websites:

- John Muir Charter School
- Los Angeles Education Corps Charter School
- Sierra Academy of Expeditionary Learning

The Jury also interviewed members of the Nevada County Office of Education (NCOE).

Facts

General Charter School Facts

- F.A.1.** Charter schools are public schools of choice.
- F.A.2.** Charter schools are not allowed to charge tuition.
- F.A.3.** Charter schools use a specialized curriculum with an individualized approach.
- F.A.4.** Charter schools are allowed to be "deregulated" in exchange for a contract for performance-based accountability.
- F.A.5.** Charter schools are schools managed by local educators, parents, and community leaders.
- F.A.6.** Charter school students are required by law to take state-mandated exams.
- F.A.7.** Charter schools are not required to use state-mandated textbooks.
- F.A.8.** Teachers are required to have a credential (or the equivalent) in core subjects:
 - English
 - History
 - Math
 - Science

- Social Studies

F.A.9. Charter school teacher salaries are sometimes not as high as those in non-charter public schools, due to

- the teachers in charter schools being more flexible regarding collective bargaining,
- charter school teachers being more flexible in their salary and benefit requirements in order to teach in a more intimate environment or to have a stronger role in the school's decision-making process,
- charter school teachers being newer teachers than those in non-charter schools.

F.A.10. According to the *National Education Association, National Center for Educational Statistics*, California traditional teachers' starting salary is \$56,950 and average salary is \$67,871 while California charter school teachers' starting salary is \$32,830 - \$49,245 and average salary is \$39,865 - \$59,798.

F.A.11. Operating expenses for Nevada County charter schools are lower than those for non-charter public schools.

F.A.12. Some Nevada County charter schools have modular classrooms.

F.A.13. California State Law requires every school district be connected to a Special Education Local Plan Area (SELPA).

F.A.14. "Special needs" classes are offered to all schools, including charter schools, to support students with exceptional needs, as defined under State and Federal Code.

F.A.15. The Individual Education Plan (IEP) assessment is determined by the SELPA "care team" (parents, teachers, and program specialists) for the type of educational plan each student needs, including those with physical, emotional, or mental challenges.

F.A.16. Charter schools are funded by a variety of sources based on Average Daily Attendance (ADA). ADA is defined as the number of days of pupil attendance divided by number of days taught.

F.A.17. Additionally, charter schools are authorized to receive funding in accordance with *The Federal Elementary & Secondary Education Act*, Part B, Sections 502-511 from

- General Purpose Block Grants (ADA Funded),
- Categorical Block Grants,

- Special Purpose Grants,
- Federal Categorical Grants,
- Local Fundraising/Parental Contributions/Donations,
- California Lottery.

F.A.18. Like all schools, mini grants and fundraising are used to supplement elective programs such as art, cultural studies, and music.

F.A.19. According to the Western Association of Schools and Colleges (WASC) website, 19 schools in Nevada County are accredited by WASC, including Bitney College Prep High School, Forest Charter School, Vantage Point Charter School, John Muir Charter School, and Los Angeles Education Corps (see Appendix, #5).

F.A.20. Charter schools are not required to provide transportation or nutritional services.

Western Nevada County Charter School Facts

Bitney College Prep High School

F.A.21. Bitney College Prep High School is located at 135 Joerschke Drive, Grass Valley.

F.A.22. The grade levels are Grades 9-12.

F.A.23. The staffing consists of a principal, nine credentialed teachers, teaching administrators, and members of the community who teach non-core subjects.

F.A.24. The current enrollment is 85 students.

F.A.25. Bitney College Prep High School was chartered in 1998. It has been at its current site for the past four years.

F.A.26. The school has a record of high state-wide required test scores, advanced placement scores, and student attendance rates.

F.A.27. Bitney College Prep High School designs academic programs to fit the individual needs of the students, offering alternative curricula and methodology beyond that of traditional public schools.

F.A.28. The school offers several innovative activities, such as travel and wilderness experiences, a variety of elective classes, and assurance that students are adequately prepared for their continuing education after leaving the school.

F.A.29. Bitney College Prep High School's curriculum is based on the University of California's *General Education Requirements*.

Chicago Park Charter School

- F.A.30.** Chicago Park Charter School is located at 15725 Mt. Olive Road, Grass Valley.
- F.A.31.** The grade levels are Kindergarten-Grade 8.
- F.A.32.** The staffing consists of a principal, seven credentialed teachers, two special education teachers who offer speech and language resources, and one part-time music teacher.
- F.A.33.** The current enrollment is 21 charter students who are co-mingled with 119 traditional students.
- F.A.34.** Chicago Park Charter School is site-based on a traditional school campus.
- F.A.35.** By site-basing the charter students, the school is able to enroll students without a district transfer.

Forest Charter School

- F.A.36.** Forest Charter School is located at 470 Searls Avenue, Nevada City.
- F.A.37.** The grade levels are Kindergarten-Grade 12.
- F.A.38.** The staffing consists of a director and 34 credentialed teachers.
- F.A.39.** The current enrollment is 700 students.
- F.A.40.** Forest Charter School was chartered in 2003.
- F.A.41.** The school is administered by a council comprised of five parents, one community leader, two teachers and one student.
- F.A.42.** Forest Charter School offers “personalized learning,” offering a variety of educational schedules, from home schooling to nearly full-time site-based attendance.
- F.A.43.** To attend the school, students are interviewed to ensure they can meet the school’s requirements for commitment and self-focus ability.

Grass Valley Charter School

- F.A.44.** Grass Valley Charter School is located at 235 Auburn Street, Grass Valley.
- F.A.45.** The grade levels are Kindergarten-Grade 8.
- F.A.46.** The staffing consists of a principal, 17 classroom credentialed teachers, four home study credentialed teachers, and several specialists.

- F.A.47.** The current enrollment is 450 students, including 70 home-study students.
- F.A.48.** Grass Valley Charter School was chartered in 1993.
- F.A.49.** The school has a combination of classroom and out-of-classroom learning.
- F.A.50.** The school focuses on building a sense of civic and social activism in students.
- F.A.51.** Grass Valley Charter School's mission is to inspire students to achieve high standards, create quality work, and embrace lifelong learning.

Nevada City Charter School

- F.A.52.** Nevada City Charter School is located at 750 Hoover Lane, Nevada City.
- F.A.53.** The grade levels are Kindergarten-Grade 8.
- F.A.54.** The staffing consists of a principal, secretary, and five teachers.
- F.A.55.** The current enrollment is 60 students.
- F.A.56.** The current site is the remodeled "Clubhouse" facility adjacent to the Nevada City School District Office and Seven Hills School.
- F.A.57.** Nevada City Charter School is a home-study support school.
- F.A.58.** On-site classes are offered two days a week with two other days providing tutorial support.
- F.A.59.** Students are not required to attend on-site classes and are provided with individualized lesson plans for home study.
- F.A.60.** Students are encouraged to participate in enrichment courses taught or offered at Seven Hills School.
- F.A.61.** The enrichment courses are offered at no cost.

Nevada City School of the Arts

- F.A.62.** Nevada City School of the Arts is located at 13032 Bitney Springs Road, Nevada City.
- F.A.63.** The grade levels are Kindergarten-Grade 8.
- F.A.64.** The staffing consists of a director and 22 teachers.
- F.A.65.** The current enrollment is 276 students.

- F.A.66.** Nevada City School of the Arts was chartered in 1994 with a curriculum that focused heavily on the arts, such as dance, performance arts, music, art, and art history.
- F.A.67.** The school does not charge tuition, but requests parents donate \$800 per student per year to supplement expenses.
- F.A.68.** The standardized test scores for the younger students are initially lower than those in more traditional schools.
- F.A.69.** By Grade 8, test scores are comparable with scores of students from other schools.

Sierra Montessori Academy

- F.A.70.** Sierra Montessori Academy is located at 16229 Duggans Road, Grass Valley.
- F.A.71.** The grade levels are Kindergarten-Grade 8.
- F.A.72.** The staff consists of an interim director, three Montessori-certified teachers, and two instructional aides who provide Montessori-type instruction for Kindergarten-Grade 4. Grades 5-8 staff includes two teachers whose instruction is based on California core curriculum standards.
- F.A.73.** The current enrollment is 93 students.
- F.A.74.** Sierra Montessori Academy was chartered in 2005 and leases its facility from Pleasant Ridge Union School District.
- F.A.75.** This school offers a traditional Montessori curriculum (see Appendix, #6) for the lower grades, and traditional classes for the higher grades.
- F.A.76.** Pre-admittance conferences assist parents in determining whether Sierra Montessori Academy is the most effective placement for their children.
- F.A.77.** The school does not offer sports programs and elective classes are only available on an after-school basis.
- F.A.78.** Many Sierra Montessori Academy graduates continue their education through a commercial home-school program, rather than attending a traditional on-site high school.

Twin Ridges Home Study Charter School

- F.A.79.** Twin Ridges Home Study Charter School is located at 111 New Mohawk Road, Nevada City.

- F.A.80.** The grade levels are Kindergarten-Grade 8.
- F.A.81.** The staffing consists of a director and seven credentialed teachers.
- F.A.82.** The current enrollment is 109 students.
- F.A.83.** Twin Ridges Home Study Charter School provides students and their families with a blend of home schooling and site-based programs.
- F.A.84.** The school was one of the first schools granted a charter in 1993 by the State of California.
- F.A.85.** The school provides an academic core education and a flexible format for its students.
- F.A.86.** Twin Ridges Home Study Charter School combines home-study and on-site attendance, with 40-50% of its students attending classes two days a week at the campus on New Mohawk Road.
- F.A.87.** Twin Ridges Home Study Charter School offers special needs programs for students. There is also a school psychologist available for students.

Union Hill Charter School

- F.A.88.** Union Hill Charter School is located at 11638 Colfax Highway, Grass Valley.
- F.A.89.** The grade levels are Kindergarten-Grade 8.
- F.A.90.** The staffing consists of a program director and three credentialed teachers.
- F.A.91.** The current enrollment is 65 students.
- F.A.92.** Union Hill Charter School offers three different categories of study, including
- an at-home study program with periodic scheduled meetings with educational specialists,
 - a partial at-home study program with attendance Tuesdays and/or Fridays for block classes at Union Hill School,
 - a hybrid program for seventh and eighth graders, which consists of at-home study, plus daily on-campus classes for either a math-science block or a language-social studies block.
- F.A.93.** The school offers special education programs, along with pre-school and after-school programs.

F.A.94. Union Hill Charter School encourages character building and development of the “whole student”.

F.A.95. Most Union Hill Charter School students transition into Nevada Union High School.

Vantage Point Charter School

F.A.96. Vantage Point Charter School is located at 10862 Spenceville Road, Penn Valley.

F.A.97. The grade levels are Kindergarten-Grade 12.

F.A.98. The staffing consists of a principal, three credentialed teachers, and one credentialed tutor.

F.A.99. The current enrollment is 60 students, with 45 being high school students.

F.A.100. Vantage Point Charter School was formerly known as Ready Springs Charter School.

F.A.101. An advisory council, usually comprised of three staff members and four parents, has traditionally assisted with the administration of Vantage Point Charter School.

F.A.102. Each student meets weekly with a credentialed teacher for direction, assessment, and planning of a five-day study schedule.

F.A.103. Math tutors are available Monday through Friday at the campus, and on-line support is offered.

F.A.104. Relationships and communications between students and teachers are important, with each student’s uniqueness respected.

F.A.105. Vantage Point Charter School is willing to “take chances” on students, and accepts credit-deficient students or those who have not succeeded elsewhere.

Yuba River Charter School

F.A.106. Yuba River Charter School is located at 505 Main Street, Nevada City.

F.A.107. The grade levels are Kindergarten-Grade 8.

F.A.108. The staffing consists of a director, 11 full-time and three part-time credentialed teachers, and several specialists who offer elective classes.

F.A.109. Teachers remain with their classes from first through fifth grades and sixth through eighth grades.

F.A.110. The current enrollment is 314 students.

- F.A.111. Yuba River Charter School was first chartered in 1993.
- F.A.112. Yuba River Charter School offers alternative curricula and methodology based on Waldorf-method curriculum (see Appendix, #7).
- F.A.113. Yuba River Charter School offers a variety of electives during the school day, such as foreign languages and music.
- F.A.114. Yuba River Charter School has a record of high test scores, advanced placement scores, and student attendance.
- F.A.115. Many students remain at the school through graduation.

John Muir Charter School

- F.A.116. John Muir Charter School is chartered through the NCOE.
- F.A.117. The NCOE provides business administration services for the school.
- F.A.118. John Muir Charter School does not have a campus in Nevada County.
- F.A.119. John Muir Charter School provides educational services primarily to members of the California Conservation Corps (CCC).

Los Angeles Education Corps Charter School

- F.A.120. Los Angeles Education Corps Charter School is chartered through the NCOE.
- F.A.121. The NCOE provides business administration services for the school.
- F.A.122. Los Angeles Education Corps Charter School is located in the Greater Los Angeles Area and does not have a campus in Nevada County.

Sierra Academy of Expeditionary Learning

- F.A.123. Sierra Academy of Expeditionary Learning is scheduled to open in the Fall of 2013.
- F.A.124. Sierra Academy of Expeditionary Learning will offer Grades 9-10.

Findings

- F.I.1. Charter schools do not charge tuition but some schools encourage parents to make monetary donations to fund programs.

F.I.2. Core subjects are not always taught at the same grade level in charter schools as in traditional schools.

F.I.3. The lower operating costs of charter schools can be attributed to several factors.

- lower payrolls
- lower operating expenses
- electives often offered by community volunteers at little or no cost
- active parental involvement of time and donations
- use of modular classrooms
- fewer amenities, such as playground equipment
- lack of organized programs, such as sports or music

F.I.4. Since transportation is not available to and from charter schools, compensatory options are available.

- potential cross-county enrollment
- full or partial independent study at home
- scheduling flexible meetings with teachers or on-site classes

Recommendations

R.1. Charter schools should continue to find creative methods to supplement their financial resources through grants, fundraising and donations.

R.2. Charter schools should continue to collaborate with traditional public schools, private schools and faith-based schools in order to facilitate smooth curriculum and social transitions for students who change schools.

R.3. Ensuring positive charter school atmospheres, each charter school should ensure that staff is trained and ready to respond to new charter school proposals
(see Appendix, #8)

R.4. Parents should thoroughly investigate and compare charter schools to ascertain what best suits their children's needs

R.5. Parents need to be aware that due to flexible core class curricula, changing from a charter school to a traditional school might prove challenging to a transitioning student.

Responses

None Required

Appendix

1. For more information on California charter schools, including charter procedures, refer to the following
 - California Department of Education www.cde.ca.gov/sp/cs
 - California Charter Schools Association www.calcharters.org

2. Sixteen Elements for Charter Schools must contain a comprehensive description of the following (*in accordance with the Education Code Sections 47605(b)(5)(A-P)*)
 - education program
 - measurable pupil outcome
 - method by which student outcome will be measured
 - governance structure
 - employee qualification
 - health and safety
 - racial and ethnic balance
 - admission requirements
 - independent financial audits
 - student suspension and expulsion
 - employee retirement system
 - student attendance alternatives
 - return rights of district employees
 - dispute resolution
 - collective bargaining
 - procedures for closings

3. Four Conditions for Charter Schools:
 - shall be nonsectarian in its programs, admission policies, employment practices and all other operations

- shall not charge tuition
- shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability
- shall admit all students who reside in California who wish to attend, up to the school's capacity based on space, staff or charter school policy

4. Three Prohibitions for Charter Schools:

- employees of a school district cannot be required to be employed in a charter school
- a pupil in a school district cannot be required to attend a charter school
- no charter school shall be granted that authorizes the conversion of any private school to a charter school

5. Western Association of Schools and Colleges (WASC) is one of six regional associations in the US that accredits public and private schools, colleges and universities. WASC's goal is to review schools on multi-levels, then accredit those that function well and prepare students well. Accreditation is usually for six years, though some schools initially get a one year probationary accreditation.

Aside from colleges and universities, WASC accredits schools from K-12, though it appears the majority of schools it accredits are high schools, technical schools or special academies.

6. For more information on the Montessori Method, refer to

The Montessori Foundation www.montessori.org

7. For more information on Waldorf education, refer to

Why Waldorf Works www.whywaldorfworks.org

8. There are currently four State of California bills in process of being passed and implemented that potentially impact the state's charter schools.

- **Assembly Bill 86:** Changes petition signature requirements of establishing charter schools
- **Assembly Bill 1172:** Allows school districts to deny a charter school petition based on a negative fiscal impact to the district
- **Assembly Bill 2032:** Expands the current public school student suspension and expulsion requirements to include charter schools

- **Senate Bill 1290:** Establishes new renewal standards for charter schools

Schools and Libraries

The Nevada County Library System
Jewels of the County – Worth Checking Out

Nevada County Grand Jury Report with Responses
2012-2013

Jewels of the County - Worth Checking Out

A Report on the Nevada County Library System

Summary

The Nevada County Library System consists of six libraries, five of which are circulating libraries, and one non-circulating historical library. Two libraries hold the distinction of being Carnegie Libraries, built by the Andrew Carnegie Foundation.

The circulating libraries contain extensive information in all forms: books, magazines, newspapers, audio books, video recordings, music recordings, and DVDs. Media is integrated as the industry progresses. Library staff is also equipped to instruct patrons on internet searches for specific topics. Each library is geared toward the subjects of its patronage and strives to enhance the materials for future needs. The libraries provide many free specialized programs for all ages.

The Friends of the Library is a non-profit volunteer organization that provides valuable resources to our local library system to assist in staffing libraries, raising funds, and hosting programs which enrich the community.

Reason for Investigation

The Nevada County Grand Jury (Jury) has the responsibility to investigate the functions of government and tax-supported agencies within the county pursuant to the California Penal Code. As such, the Jury may investigate the county's public libraries, including the management practices employed by such entities. As a result, the Jury elected to review the Nevada County Library System as a follow-up to the 2007/08 Grand Jury report.

Background

On December 19, 1857, a group of men in the mining town of Nevada City initiated a plan of a public library association. Gifts from six residents of the city set in motion origination of the libraries Nevada County enjoys today. The first library was housed on the corner of Broad and Pine Streets. Within two years, it had accumulated over 1,000 books.

The Andrew Carnegie Foundation built about 1,690 library branches between 1883 and 1929 throughout the United States, plus another 700 libraries in other countries. In 1901, this foundation contributed \$10,000 for the construction of a new library building located on the corner of Pine and York Streets in Nevada City. On October 4, 1907, a formal opening of the Nevada City Library was held with many citizens donating cash, furniture, and books to the new library. Both the Royce Branch in Grass Valley and the Doris Foley Branch in Nevada City are Carnegie Libraries, built by Andrew Carnegie's foundation. In August 1972, the Nevada City Grass Valley, and Truckee libraries were incorporated into the Nevada County Library System. In 1997, the Nevada City Library was renamed the Doris Foley Library of Historical Research.

Today, the Nevada County Library System consists of six library branches. The Madelyn Helling Library is the main branch library housing the administrative services for the County Library system. The Doris Foley Library of Historical Research is a reference library staffed by the Friends of the Nevada County Libraries (FOL).

FOL is a 501(c)(3) non-profit organization dedicated to supporting and improving library services in Nevada County.

Procedures Followed

The Jury interviewed the county librarian for an overall view of the state of the libraries. Members of the Jury visited each of the six libraries listed below for on-site inspections and interviews with the staff.

- Bear River Library
- Doris Foley Library of Historical Research
- Grass Valley Library - Royce Branch
- Madelyn Helling Library
- Penn Valley Library
- Truckee Library

The Jury also reviewed previous Grand Jury reports for comparison to current library conditions and functionality.

Facts

F.A.1. A circulating library is a library main branch, branch or station that offers materials for checkout by patrons.

- F.A.2.** A main branch library is a library branch that houses the administration of the County Library System and has a circulating library that is staffed by a professional librarian.
- F.A.3.** A branch library is a circulating library that is staffed by a professional librarian.
- F.A.4.** A station library is a circulating library that is staffed by a library technician.
- F.A.5.** The libraries offer a variety of materials including books, magazines, newspapers, audio books, video recordings, music recordings, DVDs, and internet services.
- F.A.6.** Circulating libraries have created the floating library system. A floating library system allows materials that are checked out at one library to be returned to any other branch.
- F.A.7.** FOL offer innovative free programs intended to stimulate interest in reading and promote cultural awareness and literacy.
- F.A.8.** FOL provide volunteers who are valuable assets to the libraries.
- F.A.9.** FOL raise funds by collecting and reselling previously-owned books and media.
- F.A.10.** FOL seek out gifts of materials, services, and monetary donations.
- F.A.11.** Money raised by FOL is donated to the Nevada County Library System for books, media, and other materials, as well as programming and equipment.
- F.A.12.** FOL also raise funds for use in building improvements, such as repainting of the Grass Valley-Royce Branch.
- F.A.13.** FOL fund the operating cost of the Doris Foley Library for Historical Research in Nevada City. Their volunteers provide staffing so that library can be open four days a week.
- F.A.14.** FOL host author discussions and other programs.
- F.A.15.** FOL sponsor a Children's Summer Reading Program.
- F.A.16.** FOL also support Nevada County Reads and Writes, and the Halloween Book Give-Away in Grass Valley.

Bear River Library

- F.A.17.** The library is located at Bear River High School, 11130 Magnolia Road, Grass Valley.

- F.A.18.** The library is located on school property; therefore, the public library hours are limited to non-school hours.
- F.A.19.** The public library hours are 3 pm-7 pm, Monday and Wednesday; 9 am-noon, and 1 pm-4 pm on Saturday. It is closed Sunday, Tuesday, Thursday, and Friday.
- F.A.20.** The library is a 3,000 square foot station which has a circulation in excess of 10,000 materials.
- F.A.21.** Patrons include students at the high school and members of the local community.
- F.A.22.** The library has two reading programs available: Storytelling Time held weekly for three to four year olds and a monthly Book Club for adults.
- F.A.23.** Much of the graphic art/posters displayed in the library are done by students.
- F.A.24.** The school does not charge the library rent.
- F.A.25.** The library provides books and services for students as well as the public, making it a mutually beneficial relationship.
- F.A.26.** Computer services are provided without an appointment.

Doris Foley Library of Historical Research

- F.A.27.** The library is located at 211 North Pine Street, Nevada City.
- F.A.28.** The library hours are 10 am-4 pm, Wednesday through Saturday. It is closed Sunday, Monday, and Tuesday.
- F.A.29.** The historical research branch is not a circulating library but carries items such as census indices, genealogy records, maps, past newspapers, vital statistics, assessor's maps, and extensive information on local history.
- F.A.30.** This historical reference library provides a microfilm reader so patrons can look up genealogy information, early deeds, marriage licenses, plat maps, and other historical data.

Grass Valley-Royce Branch

- F.A.31.** The library is located at 207 Mill Street, Grass Valley.
- F.A.32.** The library hours are 10 am-6 pm, Tuesday; 10 am-5 pm, Wednesday through Friday, 10 am-4 pm, Saturday. It is closed Sunday and Monday.

- F.A.33.** The library is a 6,000 square foot branch which has a circulation in excess of 193,000 materials.
- F.A.34.** The library has two floors: an upper floor dedicated to adult reading and computer access and a lower floor dedicated to children and young adult literature.
- F.A.35.** Popular children's programs include Mother Goose Time for babies and toddlers every Wednesday at 10:30 am.
- F.A.36.** Summertime programs are held outside on a grassy area.
- F.A.37.** Although space is limited and there are challenges due to the building's age, this library is used regularly by a dedicated patron base.

Madelyn Helling Library

- F.A.38.** The library is located at 980 Helling Way, Nevada City.
- F.A.39.** The library hours are 11 am-7 pm, Monday and Thursday; 11 am-6 pm, Tuesday, Wednesday, and Friday; 11 am-5 pm on Saturday. It is closed on Sunday.
- F.A.40.** This 15,000 square foot library has a circulation in excess of 360,000 materials.
- F.A.41.** The access road is being widened, and 17 parking spots will be added.
- F.A.42.** Two new tech rooms will be added which were donated by Nevada Union High School.
- F.A.43.** The library offers innovative programs for every age group, including:
- Preschool Story Time every Tuesday at 10:30 am
 - PAWS to Read, with George the Dog, every Wednesday from 3 pm-4 pm
 - Sing-along Time for the whole family every Thursday at 4 pm
 - The Teen Advisory Group on second Saturday of the month from 10 am-11 am to advise the library staff on programs for young adults
 - The movie in the afternoon for families first Monday of the month at 4 pm
 - The Book vs. Movie group first Tuesday of the month at 4 pm
- F.A.44.** The library children's room includes extensive folklore and picture book collections.
- F.A.45.** The library offers eight public-use computers or laptops available to check-out.
- F.A.46.** The library offers a reading room where patrons can read in comfort.

- F.A.47.** The library provides instruction to assist the public in literacy skills and computer usage, including English as a Second Language (ESL).
- F.A.48.** The Madelyn Helling Library offers the Gene Albaugh Community Room for rental at \$10.00 per hour.

Penn Valley Library

- F.A.49.** The library is located at 11336 Pleasant Valley Road, Penn Valley.
- F.A.50.** The library hours are 2 pm-6 pm, Tuesday and Thursday; 10 am-2 pm, Wednesday, Friday, and Saturday. It is closed on Sunday and Monday.
- F.A.51.** The 1,365 square foot station has a circulation in excess of 33,000 materials.
- F.A.52.** Books, tapes, and other materials are selected according to the patrons' interests.
- F.A.53.** The books are arranged spine-up on low-level shelves to accommodate senior usage.
- F.A.54.** The library has two computers which are internet accessible.

Truckee Library

- F.A.55.** The library is located at 10031 Levon Avenue, Truckee.
- F.A.56.** The library hours are 10:30 am-6 pm, Monday, Tuesday, Wednesday, and Friday; 11 am-7 pm, Thursday; 10 am-2 pm, Saturday. It is closed on Sunday.
- F.A.57.** The 5,000 square foot branch has a circulation in excess of 86,000 materials.
- F.A.58.** This library has three Story Times which are all well-attended:
- Babes in Book Land (ages 6-24 months)
 - Toddler Time (ages 18 months-3 years)
 - Storytelling with Mrs. Fix (3-6 years)
- F.A.59.** This library carries a large inventory of Spanish language books as it has a large Hispanic patronage.
- F.A.60.** The library offers ESL and bi-lingual programs.

General Observations

- F.A.61.** The Jury interviewed representative staff at all library sites.
- F.A.62.** Members of the staff commended the County Librarian for her leadership and enthusiasm.

Findings

- F.I.1.** Nevada County citizens have access to a variety of materials, programs, and trainings at the six county library branches.
- F.I.2.** The floating library system makes it easier for patrons to locate, check out, and return materials from the circulating library branches.
- F.I.3.** FOL provide extensive and valuable logistical, financial, and educational assistance and support to the library branches.
- F.I.4.** Nevada County library patrons come from a variety of ages and backgrounds. The library materials and programs are designed and provided to accommodate this diverse patron base.
- F.I.5.** Computer training and access to computers are integral parts of the libraries' services.
- F.I.6.** FOL and the library staff are professional and well informed.
- F.I.7.** The County Librarian is recognized by her staff as being an outstanding leader.

Recommendations

- R.1.** The public should recognize the outstanding leadership and enthusiasm of the County Librarian.
- R.2.** The public should continue to use the excellent resources and free programs provided by the Nevada County libraries.
- R.3.** The public should recognize the contributions of FOL and the library staff.

Responses

None required

Special Districts

Mystic Mine Road Community Services District

Nevada County Grand Jury Report with Responses
2012-2013

MYSTIC MINE ROAD COMMUNITY SERVICES DISTRICT

Summary

The Mystic Mine Road Community Services District is an independent special district responsible for public road maintenance services in the area of Mystic Mine Road in unincorporated Nevada County. The Mystic Mine Road Community Services District is governed by a Board of Directors elected by the district's voters.

The Nevada County Grand Jury received citizen complaints regarding the Mystic Mine Road Community Services District. In the process of investigating these complaints, the Nevada County Grand Jury found the Mystic Mine Road Community Services District Board of Directors lacked continuity of membership, training in the roles and responsibilities of board members, and management, accounting, and administrative skills necessary to operate a special district. These deficiencies have resulted in insufficient oversight and a lack of control of the actions and activities of the Board and volunteers of the Mystic Mine Road Community Services District.

The Nevada County Grand Jury further found the Mystic Mine Road Community Services District has no viable by-laws and has violated open meeting laws as there are no regularly scheduled meetings of the Board of Directors.

The Nevada County Grand Jury also found that the current annual property assessment is inadequate to properly maintain all public roads within the Mystic Mine Road Community Services District.

For these reasons the Nevada County Grand Jury finds that the Mystic Mine Road Community Services District is neither financially nor functionally viable as a special district. The Board of Directors should enter into discussions with the Nevada County Local Area Formation Commission and Nevada County Board of Supervisors regarding dissolution.

Reasons for Investigation

On June 20, 2012, the Nevada County Grand Jury (Jury) received a complaint regarding the Mystic Mine Road Community Services District (MMRCSD). The complainant requested the Jury review the actions of the MMRCSD Board of Directors (Board) and also alleged violations of open meeting laws.

On August 20, 2012, the Jury received a second complaint regarding the MMRCSD. The complainant alleged lack of diligence by the Board in carrying out its responsibilities for road maintenance. A third complaint was received on September 28, 2012 alleging the MMRCSD was a "failed organization" which should be dissolved.

The Jury has the authority to investigate special purpose assessment or taxing districts, including those commonly known as special districts, in Nevada County.

Background

Special districts are a form of local government created by a community to meet a specific need. Most of California's special districts perform a single function such as sewage, water, fire protection, pest management, or cemetery management. There are approximately 2,300 independent special districts in California, each governed by an independent board of directors or appointed to a fixed term of office by either a city council or a county board of supervisors. There are twenty-four special districts in Nevada County.

The MMRCSD is an independent special district supported by public funds. It has no full time employees and the Board is comprised of volunteers.

The MMRCSD is governed by a five-member Board elected by district voters during the general election held in November. The members of the Board serve four-year terms.

The Board is responsible for setting policy and general administrative procedures. The Board is required to meet in regular session with an agenda posted in a location of community access.

Procedures Followed

The Jury interviewed a member of the Board, a member of the Nevada County Board of Supervisors, a staff member from the Nevada County Local Area Formation Commission (LAFCo), a member of the Nevada County Department of Public Works, and district residents. The Jury also reviewed related documents.

The Jury's investigation focused on the time period of 1981 through the present date.

Facts

- F.A.1.** The MMRCSD was established in 1981 for the purpose of maintaining public access roads within the geographical boundaries of the District.
- F.A.2.** The MMRCSD is governed by a five-member Board elected by the registered voters of the District.
- F.A.3.** The Board membership has changed eight times in the past ten years.
- F.A.4.** There are a total of ninety-seven (97) parcels in the MMRCSD.

- F.A.5.** The budget of the MMRCSD has been funded since 1981 through a \$120.00 annual per parcel assessment within the District.
- F.A.6.** A current member of the Board estimates one-half of the annual revenues received are used to pay for audits, insurance and other unspecified fees.
- F.A.7.** The MMRCSD contracts with an individual to perform bookkeeping services at a cost of approximately \$500 per year. The District has no paid employees.
- F.A.8.** All members of the Board are required to complete ethics training in compliance with state mandates for local officials.
- F.A.9.** The California Special Districts Association provides education and information to board members and staff of special districts in California on their roles and responsibilities
- F.A.10.** The Nevada County LAFCo provides education and information to board members and staff of special districts in Nevada County on their roles and responsibilities.
- F.A.11.** Not all Board members have completed available training on their roles and responsibilities.
- F.A.12.** Section 54950 of the California Government Code indicates that all districts must comply with the *Ralph M. Brown Act* (Brown Act).
- F.A.13.** The Brown Act outlines the responsibilities and requirements of open public meetings held by the governing board of a public agency, including
- defining a special district as a public agency,
 - requiring a public agency to notice the public of the agenda of a meeting of the governing board of the public agency at least 72 hours in advance of the scheduled meeting,
 - allowing the governing board of a public agency to enter into closed or executive session regarding specified items,
 - requiring the governing board to report in open session any action taken on specified items in closed or executive session,
 - requiring the public agency to note any action taken by the governing board in closed session in the meeting minutes.
- F.A.14.** There is a document titled *By-Laws of the Mystic Mine Road Community Services District* (By-Laws).

- F.A.15.** Section B, Article III of the By-Laws, titled *Meetings* states: “The Committee shall hold meetings a month on the _____ of each month at _____ {p.m.} {a.m.} at _____, located at _____, CA95 _____.”
- F.A.16** The MMRCSD does not schedule regular meetings.
- F.A.17.** The MMRCSD has no written policies and procedures for bidding and purchasing of supplies and equipment.
- F.A.18.** The MMRCSD has no specific policies, procedures, nor internal controls for financial processes as noted by independent auditors in June of 2011.
- F.A.19.** Repair and maintenance of roads within the MMRCSD have been undertaken without notification to residents or Board approval.
- F.A.20.** The Nevada County Public Works Department requires that all roads maintained by Nevada County
- be a minimum of eighteen feet in width,
 - have a minimum of a ten foot easement on each side,
 - have at least fifteen feet of visibility in front of a vehicle,
 - be capable of handling loads of a minimum of 40,000 pounds.
- F.A.21.** The Nevada County Public Works Department estimates that approximately \$200,000 would be required to upgrade public roads within the MMRCSD to meet Nevada County specifications.
- F.A.22.** The current revenues received by the MMRCSD are approximately \$12,000 per year.
- F.A.23.** California Government Code sections 56870 and 56871 outline requirements for dissolution of a special district
- F.A. 24.** California Government Code Section 56375 provides the Nevada County Local Agency Formation Commission with the power of dissolution of special districts.
- F.A. 25.** The Nevada County Local Agency Formation Commission policy section V. F. 1. sets forth grounds for district dissolutions.

Findings

- F.I.1.** The MMRCSD is subject to the Brown Act.
- F.I.2.** The MMRCSD By-Laws are generic in nature and have not been amended to include specific reference to MMRCSD.
- F.I.3.** The By-Laws are incomplete.
- F.I.4.** The Board has lacked consistency and continuity due to the frequent turnover of its membership, lack of written policies and procedures, and absence of regularly scheduled meetings.
- F.I.5.** The Board members' lack of education and training in their roles has contributed to insufficient oversight and lack of control of the actions and activities of the MMRCSD.
- F.I.6.** The current annual property assessment is not adequate to upgrade or maintain roads within the MMRCSD to Nevada County standards.
- F.I.7.** The MMRCSD is neither financially nor functionally viable as a special district.

Recommendations

The Nevada County Grand Jury recommends:

- R.1.** The MMRCSD should enter into discussions with the Nevada County LAFCo and the Nevada County Board of Supervisors regarding dissolution.

Responses

Mystic Mine Road Community Services District Board of Directors: Date: August 21, 2013

MYSTIC MINE ROAD COMMUNITY SERVICE
DISTRICT RESPONSES TO THE 2012/2013
NEVADA COUNTY GRAND JURY REPORT

July 24,2013

RESPONSES TO FINDINGS

F.1.1. The MMRCSD is subject to the brown act. Agree

F.1.2. The MMRCSD By-Laws are generic in nature and have not been amended to include specific reference to MMRCSD.

Agree

F.1.3. The By-Laws are incomplete.

Agree

F.1.4. The Board has lacked consistency and continuity due to the frequent turnover of its membership, lack of written policies and procedures, and absence of regularly scheduled meetings.

Agree

F.1.5. The Board members' lack of education and training in their roles has contributed to insufficient oversight and lack of control of the actions and activities of the MMRCSD.

Agree

F.1.6. The current annual property assessment is not adequate to upgrade or maintain roads within the MMRCSD to Nevada County Standards.

Partially Disagree: The MMRCSD consists of all private roads, and as such are not under County control/standards.

F.1.7. The MMRCSD is neither financially nor functionally viable as a special district

Partially Disagree: The MMRCSD is functioning better each year. The Board is working on improvement in all areas.

RESPONSE TO RECOMMENDATION

R.1. The MMRCSD should enter into discussions with the Nevada County LAFCo and the Nevada County Board of Supervisors regarding dissolution.

Wholly Disagree: The recommendation will not be implemented. The MMRCSD Board President has met with LAFCo and the fourth District supervisor of Nevada County (June 20,2013) Both agree that since there is no malfeasance, or ethical violations,The Board of the MMRCSD should not disband. Both agencies are aware of the short comings of our CSD. 1. Failure to insert a COLA into the road taxes.

2. The history of rancor and distrust due to past presidents confrontational egos, and the apathy concerning making decisions regarding financial, governing, easement law, and encroachment rules.

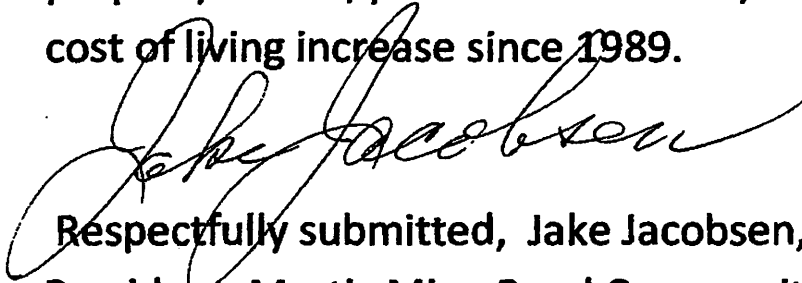
3. The Board of the MMRCSD feels it has a responsibility to the 97 parcel owners in this district. To disband would put to waste thousands of asphalt dollars over the past 30 years. What is now a very good road would dissolve back to dirt

because the district voters have already voted down a PRD proposal that would multiply eight fold their current road fee.

Since most of the property owners are retired fixed income people, any increases would create severe hardship.

In addition MMRCSD has already approved a plan to create a policy and procedure manual and to amend the by-laws for clarity and strength.

MMRCSD will also continue dealing with the challenges of raising the assessment taxes. Letters will be going to every property owner, present and absent, regarding the lack of a cost of living increase since 1989.

A handwritten signature in black ink, appearing to read "Jake Jacobsen", written in a cursive style. The signature is positioned above the typed name and title.

Respectfully submitted, Jake Jacobsen,
President, Mystic Mine Road Community Service District.

Special Districts

Nevada County Consolidated Fire District
Board of Directors

Nevada County Grand Jury Report with Responses
2012-2013

NEVADA COUNTY CONSOLIDATED FIRE DISTRICT BOARD OF DIRECTORS

Summary

The Nevada County Consolidated Fire District is an independent special district responsible for fire protection and emergency medical services in the unincorporated areas in and around Grass Valley, California and Nevada City, California. The Nevada County Consolidated Fire District is governed by a Board of Directors elected by the district's voters.

The Nevada County Grand Jury received three citizen complaints regarding the Nevada County Consolidated Fire District. In the process of investigating these complaints, the Nevada County Grand Jury found the Nevada County Consolidated Fire District Board of Directors, both collectively and individually, have fallen woefully short in their roles and responsibilities as board members of a public agency and failed to follow or voluntarily chose to ignore their internal policies and procedures, as well as California's open meeting laws, known as the *Ralph M. Brown Act*.

The Nevada County Grand Jury found the Nevada County Consolidated Fire District Board of Directors is dysfunctional and is wracked by discord, acrimony, back-biting, and mistrust among Board Members. As such, the meetings of the Nevada County Consolidated Fire District Board of Directors are acrimonious and lack professionalism, civility, and respect between Board Members. Additionally, the Board has exhibited a lack of civility, decorum, and respect toward some employees of the Nevada County Consolidated Fire District.

The Nevada County Grand Jury found there is an expectation of a higher standard of behavior by the Nevada County Consolidated Board of Directors as individuals elected to positions of public trust by the citizens of the Nevada County Consolidated Fire District.

The Nevada County Grand Jury found there is a complete breakdown of organizational and chain-of-command structure within the Nevada County Consolidated Fire District. The Nevada County Consolidated Fire District Board of Directors has undermined the authority of the Fire Chief as the Chief Executive Officer of the Nevada County Consolidated Fire District and inserted themselves into a management role in violation of internal by-laws and policies and procedures.

The Nevada County Grand Jury found the Nevada County Consolidated Fire District's lack of executive leadership and micromanagement by the Nevada County Consolidated Fire District Board of Directors fostered an unhealthy working environment for administrative staff. This led to personal hostility among administrative staff, the Nevada County Consolidated Fire District Board of Directors, and the Nevada County Consolidated Fire District employees. This unhealthy environment led to the physical separation of administrative staff, resulting in additional time and effort being expended to provide administrative services.

The Nevada County Grand Jury found the Nevada County Consolidated Fire District lacks a comprehensive administrative policy and procedures manual. Currently, the numerous and various codes, by-laws, policies, rules, and ordinances promulgated by the Nevada County Consolidated Fire District are inadequate, vague, often in conflict, and contain provisions allowing the Nevada County Consolidated Fire District Board of Directors to “pick and choose” the governing rules it wishes to follow and those it wishes to ignore.

The Nevada County Grand Jury found the Nevada County Consolidated Fire District Board of Directors failed to utilize the services of legal counsel to provide advice to board members. The Nevada County Consolidated Fire District Board of Directors repeatedly entered into financial agreements which are inadequate, incomplete, unwritten, and lack protection for the Nevada County Consolidated Fire District. These actions, in turn, caused excessive and unexpected expenditures by the Nevada County Consolidated Fire District.

The Nevada County Grand Jury found the Nevada County Consolidated Fire District Board of Directors failed to take appropriate action in response to allegations of employee and Board violations of internal rules, regulations, policy, procedures, and ordinances.

The Nevada County Grand Jury found the credibility to negotiate collective bargaining agreements by the Nevada County Consolidated Fire District Board of Directors is questionable, due to close personal relationships between some directors and the leadership of the Nevada County Professional Firefighters, Local 3800 of the International Association of Fire Fighters.

The Nevada County Grand Jury recommends the members of the Nevada County Consolidated Fire District Board of Directors attend training regarding the roles and responsibilities of board members in a special district. The members of the Nevada County Consolidated Fire District Board of Directors should conduct themselves, collectively and individually, in a manner expected of persons elected to positions of public trust.

The Nevada County Grand Jury recommends the Nevada County Consolidated Fire District Board of Directors should work with the Fire Chief to develop a comprehensive policy and procedures manual. This policy and procedures manual should include thorough review of all financial agreements to protect the Nevada County Consolidated Fire District from excessive expenditures. Additionally, the Nevada County Consolidated Fire District Board of Directors should actively seek out the advice and expertise of legal counsel as required in the policy and procedures manual.

The Nevada County Grand Jury recommends the Fire Chief should have clear authority to implement the newly developed policy and procedures and to manage the day-to-day operations of the Nevada County Consolidated Fire District. Conversely, the Nevada County Consolidated Fire District Board of Directors should respect the organizational structure and chain of command structure and not interject themselves into the management of the day-to-day operations of the Nevada County Consolidated Fire District.

The Nevada County Grand Jury recommends the members of the Nevada County Consolidated Fire District Board of Directors maintain a professional relationship with the leadership of employee bargaining units to ensure there is no perception of impropriety and undue influence on decision making.

The Nevada County Consolidated Fire District Board of Directors should improve existing policies to facilitate open communication among the Nevada County Consolidated Fire District Board of Directors, staff, and the public. Finally, the Nevada County Grand Jury recommends the Nevada County Consolidated Fire District Board of Directors, the management, and staff work together to restore the public trust and rebuild the public image of the Nevada County Consolidated Fire Protection District.

Reasons for Investigation

In 2012, the Nevada County Grand Jury (Jury) received three citizen complaints regarding the Nevada County Consolidated Fire District (NCCFD). The complainants requested the Jury review the actions of the NCCFD Board of Directors (Board) for failures in following prescribed rules, regulations, and ordinances. The complainants also alleged possible violations of open meeting laws by the Board.

The Jury has the authority to investigate special purpose assessment or taxing districts, including those commonly known as special districts, in Nevada County.

Background

Special districts are a form of local government created by a community to meet a specific need. Most of California's special districts perform a single function such as sewage, water, fire protection, pest management, or cemetery management. There are approximately 2,300 independent special districts in California, each governed by an independent board of directors elected by the district's voters or appointed to a fixed term of office by either a city council or a county board of supervisors. There are twenty-four independent special districts in Nevada County.

The NCCFD is an independent special district supported by public funds. The NCCFD is made up of approximately thirty-two full-time personnel. The NCCFD budget for 2012-2013 is approximately \$5,300,000. The NCCFD is responsible for approximately 150 square miles of western Nevada County and serves an estimated 35,000 residents.

The NCCFD is governed by a seven-member Board elected by district voters. The Board is responsible for setting policy and general administrative procedures. The Board meets in regular session every month. These meetings take place at 7:00 pm on the third Thursday of each month and are open to the public.

In the general election of November 2012, two new members were elected to the Board. One incumbent Board member was returned to office by district voters.

Procedures Followed

The Jury interviewed 20 individuals including members of the staff of the NCCFD; the NCCFD Board; the Nevada County Professional Firefighters Union, International Firefighters Association, Local 3800 (Local 3800); the Nevada County Board of Supervisors; and the public. The Jury also reviewed related documents including Board Meeting Agendas and Minutes, material from the NCCFD website, NCCFD staff reports, NCCFD governing documents, e-mails, written documentation prepared by Board members, quotations of Board members in the media, and audio recordings of Board Meetings.

The Jury's investigation focused on the time period of November 2011 through the present.

Facts

General

- F.A.1.** The NCCFD is governed by a seven-member Board elected by registered voters of the NCCFD during the general elections held in November. The members of the Board serve four-year terms.
- F.A.2.** The past Chairperson served until January 1, 2013.
- F.A.3.** The Board selected a new Chairperson, effective January 1, 2013. The new Chairperson served until March 15, 2013, when he resigned as Chairperson. The resignation was accepted by the Board on March 21, 2013. A new Chairperson was appointed by the Board on March 21, 2013.
- F.A.4.** The California Special Districts Association provides education and information to board members and staff of special districts in California on their roles and responsibilities.
- F.A.5.** The Nevada County Local Agency Formation Commission (LAFCo) provides education and information to board members and staff of special districts in Nevada County on their roles and responsibilities.
- F.A.6.** The NCCFD budgets monies for the education and training of Board members.
- F.A.7.** All members of the Board completed ethics training in compliance with the state requirements for local officials.

- F.A.8.** Some members of the Board stated they knew of other educational and training opportunities but chose not to attend.
- F.A.9.** *California Government Code* section 54950 et seq., commonly known as the *Ralph M. Brown Act* (Brown Act), is the California state law which outlines the responsibilities and requirements of open public meetings held by the governing board of a public agency, including
- defining a special district as a public agency,
 - defining a meeting of a governing board of a public agency to include any gathering of a quorum of its members to discuss or transact business under the governing board's jurisdiction,
 - requiring a public agency to notice the public of the agenda of a regularly scheduled meeting of the governing board of the public agency at least 72 hours in advance of the scheduled meeting,
 - requiring a public agency to notice the public of the agenda of a special meeting of the governing board of the public agency at least 24 hours in advance of the scheduled meeting,
 - requiring the public agency to notice the public of the agenda of an emergency meeting of the governing board at least one hour in advance of the scheduled meeting,
 - allowing the governing board of a public agency to enter into closed or executive session regarding specified agenda items,
 - requiring the governing board to report in open session any action taken on specified agenda items in closed or executive session.
- F.A.10.** The firefighter employees of the NCCFD are represented by a labor organization, the Nevada County Professional Firefighters, Local 3800 of the International Association of Fire Fighters (Local 3800).
- F.A.11.** The President of Local 3800 is an employee of the NCCFD.
- F.A.12.** Referring to a NCCFD employee, a Board member stated in an open meeting, "We ought to fire the son of a b.... right now".
- F.A.13.** The Jury has observed Board members, during an open meeting, engaging in a personal discussion and disparaging each other regarding fire stations named after each Board member.
- F.A.14.** A Board member, during a public meeting, belittled and disparaged advice given to the Board by NCCFD staff.
- F.A.15.** A Board member has filed a complaint with the Nevada County District Attorney, alleging misappropriation of public funds by employees of the NCCFD.

- F.A.16.** A Board member has filed a complaint with the Nevada County District Attorney's Office, alleging extortion and conspiracy by two other Board members.
- F.A.17.** During an open, public meeting, a Board member referred to the Brown Act as "a roadblock to getting anything done".

Administration of the NCCFD

- F.A.18.** The *Nevada County Consolidated Fire District By-Laws* (By-Laws), section 6.3(b), titled *Duties of the Fire Chief*, states, in part,

"The Chief has the responsibility for the overall management of all operations of the District."

- F.A.19.** The Fire Chief is in charge of day-to-day operations of the NCCFD.
- F.A.20.** The Board formally placed the Fire Chief on administrative leave on April 19, 2012.
- F.A.21.** A temporary Division Chief was named by the Board on March 23, 2012 to fulfill the duties of the Fire Chief.
- F.A.22.** The By-Laws, Section 3.2(b), titled *Board of Directors, General Powers and Duties*, states
- "The Board has the responsibility to establish the overall policies of the District regarding the scope and level of service to be provided, and should not direct day-to-day management of the District."
- F.A.23.** A Board member has publicly stated, "They [staff] weren't following instructions. They wanted to confuse the issue. We [the Board] are the ones in charge, they are supposed to follow our orders."
- F.A.24.** Under the NCCFD organizational structure, the Finance Manager and the Finance Administrative Assistant report directly to the Fire Chief.
- F.A.25.** A member of the administrative staff refused to comply with a request from the temporary Division Chief to produce NCCFD documentation.
- F.A.26.** Due to personal conflicts, financial and administrative employees are physically located in two separate locations, approximately six miles apart.

- F.A.27. The Finance Manager/Office Manager and the Finance Administrative Assistant are located at 10135 Coyote Street, Nevada City, California.
- F.A.28. The Fire Chief, the Division Chief, a Battalion Chief, the Human Resources Administrator, the Board Secretary, and the Operations Services Specialist are located at 11329 McCourtney Road, Grass Valley, California.
- F.A.29. Members of the NCCFD staff stated they were fearful of and intimidated by the mismanagement and micromanagement by the Board.
- F.A.30. Members of the NCCFD staff stated they feared employment termination because of intimidation by the Board.
- F.A.31. Members of the Board stated they were aware of the perceived hostile work environment at the NCCFD.

Policies and Procedures

- F.A.32. The NCCFD does not have a comprehensive policy and procedures manual.
- F.A.33. The NCCFD has various rules, resolutions, policies, and ordinances regarding various subject matters.
- F.A.34. Section 4.13(d) of the NCCFD By-Laws, titled *Transactions of the Board*, states

“By a majority vote, and for good cause shown, the Board of Directors may approve a variance from the strict application of District ordinances, resolutions, and policies.”

- F.A.35. Section 1.1.1 of the *Nevada County Consolidated Fire District Personnel Code*, titled “*Purpose of this Code*” states, in part,

“...The small number of employees of the District, however, requires that management be allowed considerable flexibility in the application of these policies.”

Underutilization of NCCFD Legal Counsel

- F.A.36. The Board has contracted with a private attorney to provide legal counsel to the Board and to NCCFD staff.

F.A.37. The Board met, in either regularly scheduled meetings or in special meetings, on 33 occasions between January 20, 2011 and March 21, 2013.

F.A.38. The Board Agendas and Board Minutes indicate the Board discussed and/or took action on numerous agenda items, in both open and closed sessions, without the benefit of legal counsel being present, including in part

- Review Complaints Against a Public Employee,
- Conference with Labor Negotiators,
- Public Employee Release,
- Conference with Real Property Negotiators,
- Anticipated Litigation,
- Conference with Legal Counsel – Anticipated Litigation,
- Public Employee Evaluation,
- Public Employee Matter,
- Public Employee Personnel Matter.

F.A.39. The NCCFD's legal counsel was present on three of the 33 occasions between January 20, 2011 and March 21, 2013, according to Board Minutes.

Special Tax Assessment Election of 2012

F.A.40. In the fall of 2011, the Board determined the cost of providing emergency services was increasing while the NCCFD's revenues were not keeping pace, due to the economic downturn.

F.A.41. The NCCFD website states that during the economic downturn the Board had

- reduced overhead and administrative costs by not filling employee positions that were vacated through attrition,
- not provided NCCFD employees with cost-of-living salary increases for the previous four years,
- negotiated a 7% salary decrease for NCCFD firefighters,
- negotiated with all NCCFD employees to have employees pay a portion of their medical insurance premiums,
- closed three fire stations, on a rotating basis, to reduce costs.

F.A.42. The NCCFD's website stated funding received from the special tax measure would ensure the NCCFD

- keep all existing fire stations open and stop station closures on a rotating basis,
- preserve rapid emergency response time to all emergency calls,
- preserve local emergency medical services and rescue services,

- maintain current protection from wildland fires,
- prevent the layoff of critically needed firefighting personnel,
- spend all funds to maintain emergency services.

F.A.43. At the Board's regularly scheduled meeting on November 17, 2011, the Board decided to hold a vote-by-mail election to seek approval of a special tax measure on properties located within the NCCFD.

F.A.44. The Board chose not to utilize the Nevada County Elections Office to administer the election as the Board did not want to wait for the scheduled primary election in June 2012.

F.A.45. The NCCFD's website indicates the timeline for the vote-by-mail election.

- The ballots would be mailed to registered voters on February 6, 2012.
- The completed ballots were to be returned to the NCCFD by March 6, 2012.
- The election result would be announced at the regularly scheduled Board meeting on March 15, 2012.

F.A.46. At the Board meeting on March 15, 2012, the Fire Chief announced the special tax measure had passed.

Letter of No-Confidence

F.A.47. On February 21, 2012, Local 3800 prepared a letter to the Board stating the members of Local 3800 had, "...NO CONFIDENCE in the abilities of [the Fire Chief] with matters regarding collective bargaining, management, leadership and integrity."

F.A.48. This letter was presented to the Board Chair and a Board member on February 24, 2012 by the President of Local 3800.

F.A.49. The Board Chair and Local 3800 President did not present the no-confidence letter to the Board because both felt it could possibly affect the on-going special tax measure election.

F.A.50. On Saturday, February 25, 2012, the Board Chair sent a copy of the no-confidence letter to two Board members by electronic mail (e-mail).

F.A.51. On Monday, February 27, 2012, the Board Chair spoke to all Board members individually by telephone regarding the no-confidence letter.

F.A.52. On Monday, February 27, 2012, the Board Chair and two Board members met with the NCCFD's legal counsel regarding the no-confidence letter.

F.A.53. On Monday, February 27, 2012, the Board Chair and two Board members met with the Fire Chief regarding the no-confidence letter.

F.A.54. On Monday, February 27, 2012, the Board Chair sent an e-mail to all Board members, stating the Board Chair and two Board members, acting as the "Ad Hoc Committee on District Restructuring" would "deal with" the issue of the no-confidence letter.

F.A.55. Section 5.3 of the NCCFD By-Laws, titled *Duties of Board Officers*, states

"(a) The Chairman The Chairman shall preside at Board meetings and generally perform such other duties as directed by the Board. The Chairman shall have authority outside of regular meetings to make decisions concerning the following:
(1) Procedural issues relating to meetings such as the agenda, noticing, time and place, etc.,
(2) Providing the Chief with guidance as to the interpretation of Board action."

F.A.56. Section 5.5 of the NCCFD By-Laws, sub-titled "*Committees*" states

"The Board may, from time to time, form other committees as are necessary."

F.A.57. A Board member was asked, by the Jury, why the Board Chairman had unilaterally established a committee in violation of NCCFD By-Laws, he replied, "The By-Laws do not say the Board has to vote on it."

F.A.58. On Wednesday, February 29, 2012, the Board Chair sent an e-mail to all Board members, which reads, in part,

"Let's be very aware of the Brown Act in our communications. A "give and take" in email can and likely would be construed as a violation of the Act. These are questions that we can resolve in other ways.

If you have any questions that need attention, please send them to Directors [Board Member], [Board Member] or myself, and we will do our very best to integrate your concerns into our ongoing discussions. The Ad Hoc committee has be (sic) ability to work on this and then report back to the whole Board, where we can have further discussions in non-public session concerning protected employee issues. Please understand, any questions you may have, or suggestions are very important to us, so do not fail to share concerns and questions with the Ad

Hoc committee; I will guarantee that they will be seriously considered. It is just the discussion among Board members that may result in subsequent decisions are prohibited.”

- F.A.59.** A majority of the Board members stated they responded to the Board Chairman’s e-mail regarding the no-confidence letter.
- F.A.60.** *The Opinions of the Attorney General of California* (84 Ops. Cal. Atty. Gen. 30 (2001)) states a majority of the governing board violates the Brown Act if the members e-mail each other regarding current issues under the governing board’s jurisdiction.
- F.A.61.** On Thursday, March 1, 2012, the Ad Hoc Committee on District Restructuring and the Board’s legal counsel met with representatives of Local 3800 regarding the no-confidence letter.
- F.A.62.** There are no agendas or minutes of any scheduled regular meeting or special meeting of the full Board between February 16, 2012 and March 15, 2012.

NCCFD Board Meeting of March 15, 2012

- F.A.63.** At the regularly scheduled Board meeting on March 15, 2012, the Board met in closed session to “Review Complaint against a Public Employee.”
- F.A.64.** In the closed session, the Board voted 7-0 in an affirmative vote of confidence in the Fire Chief.
- F.A.65.** The Board was notified by the representative of the Fire Chief that the Board was required to report the action in open session.
- F.A.66.** The Board told the Fire Chief and his representative that they would not report the vote in open session.
- F.A.67.** A Board member reported, in open session, the Board had “directed the Chairman how to proceed, and he will be following up in the next couple of days.”
- F.A.68.** After the Board meeting, there was an alleged physical altercation between the Fire Chief and a NCCFD employee.
- F.A.69.** A representative of Local 3800 telephoned a Board member to report the alleged altercation between the Fire Chief and the NCCFD employee that same night.

- F.A.70.** The Board member contacted was a Reserve Deputy Sheriff with the Nevada County Sheriff's Office (NCSO) at the time of the telephone call.
- F.A.71.** The representative of Local 3800 requested the Board member investigate the alleged altercation in the Board member's capacity as a Reserve Deputy Sheriff of the NCSO.
- F.A.72.** The Board member declined to intervene and directed the representative to report the altercation to the NCSO.
- F.A.73.** The representative then reported the alleged altercation to the NCSO. An on-duty Deputy Sheriff responded and took a report.
- F.A.74.** The NCSO forwarded an investigative report to the Nevada County District Attorney's Office (NCDA) for review. After review, the NCDA declined to file any criminal charges in the matter.

Lack of Fiduciary Responsibility - Employee Concessions

- F.A.75.** On November 17, 2011, the Board decided to seek voter approval of a special tax measure.
- F.A.76.** At a special meeting of the Board on December 1, 2011, the Board approved *Nevada County Consolidated Fire District Resolution R11-17*, entitled *Resolution Authorizing Execution of Memoranda of Understanding Concerning Compensation and Benefits with the Classified District Employees* (Resolution 11-17).
- F.A.77.** Attachment "A" of Resolution 11-17 is entitled, *Memorandum of Understanding Between Nevada County Consolidated Professional Firefighters, IAFF Local 3800 December 1, 2011 through December 31, 2012* (MOU).
- F.A.78.** Section 5, also known as Clause 5 of the MOU, entitled *Salary Schedule*, states, in part,
- “(b) The EMPLOYEES and the DISTRICT have agreed to postpone merit increases for the term of this MOU... Merit increases shall take place on the employee's next evaluation date in Calendar year of 2013 and will not be retroactive back to the 2011-2012 Fiscal Year.”
- F.A.79.** Section 13, also known as Clause 13 of the MOU, titled *Holidays*, states, in part,

“(d) The EMPLOYEES and the DISTRICT have agreed to postpone the holiday pay... This section will be reinstated on January 1, 2013 and will not be retroactive back to the 2011-2012 Fiscal Year.”

F.A.80. On March 15, 2012, it was announced the special tax measure had passed.

F.A.81. At the regularly scheduled Board meeting on September 20, 2012, the Board met in closed session for “Conference with Labor Negotiators.”

F.A.82. The Board Minutes of September 20, 2012, states, in part,

“...Director [Board Member] made the following motion in Open Session:

MOTION: To reinstate all Local 3800 members merit increases Section 5 Article B, and Holiday Pay Section 13, Article D, retroactive to July 1, 2012. This motion will not change any members hire date, evaluation date, or scheduled merit date. In the future, all Local 3800 employees shall receive merit and other wage and salary increases pursuant to the MOU, notwithstanding the Concession Side Letter of Agreement dated December 1, 2011.

Director [Board Member] seconded. MOTION unanimously carried after a roll call vote.”

F.A.83. At a regular meeting of the Board on November 15, 2012, the Board approved *Nevada County Consolidated Fire District Resolution R12-25* (Resolution 12-25), titled *Resolution Authorizing A Side Letter of Agreement Between The Nevada County Consolidated Fire Professional Firefighters, IAFF Local 3800 And The Nevada County Consolidated Fire District.*

F.A.84. Resolution 12-25 states, in part,

“**WHEREAS**, the BOARD and the EMPLOYEES have agreed to reinstate the current MOU that is in full effect from December 1, 2011 through December 31, 2012, and which reinstates Merit Step Increases outlined in clause 5(b) and reinstates Holiday Pay as outlined in clause 13(d), retroactively to July 1, 2012;...”

F.A.85. The Board approved Resolution 12-25 on a 6-1 vote.

F.A.86. The NCCFD estimated the cost of the reinstatement of merit step increases and holiday pay to NCCFD firefighters was approximately \$20,000 for the period of July 1, 2012 through December, 2012.

Lack of Fiduciary Responsibility - Employee Health Savings Accounts (HSA)

F.A.87. At a special board meeting on December 1, 2011, the Board unanimously passed Resolution 11-17.

F.A.88. Resolution 11-17 includes four attachments outlining MOUs with four separate employee bargaining units.

F.A.89. The MOUs were later extended by the Board through December 31, 2013.

F.A.90. The MOUs state, in part, "The agreement shall remain in its full force and effect until renegotiated or superseded by successor agreement."

F.A.91. Each attachment includes a Section 6, titled *Medical Insurance*. Sub-section (b) of section 6 reads, in part,

"The DISTRICT agrees to pay 80% of the offered HSA accounts annual deductible. The 80% shall be deposited into the Employee's HSA account at the beginning of each calendar year..."

F.A.92. NCCFD staff recommended to the Board that it make deposits into employees' HSA accounts on a quarterly basis. The Board did not follow the recommendation.

F.A.93. The employees' HSA accounts are the property of the employees named on the contribution form. The NCCFD has no control or authority over any monies that the NCCFD deposits into the HSAs.

F.A.94. During the first four months of 2013, three employees retired from the NCCFD.

F.A.95. On retirement, the three employees received the balance remaining in their HSAs, totaling approximately \$14,000.

Lack of Fiduciary Responsibility - Contracts

F.A.96. The Board met in a closed session at a special meeting of the Board on March 20, 2012 to "Review Complaint Against a Public Employee."

- F.A.97.** The NCCFD legal counsel, on behalf of the Board Chairman, reported out of the closed session that the Board had decided “to obtain an outside investigator which the Chairperson had been authorized to facilitate...”
- F.A.98.** Section 7.1 of the By-Laws titled *Authority to Bind District* states
- “No member of the Board, officer, agent, or employee of the District shall have any authority to bind the District by any contract, to pledge its credits, or to execute any instrument on behalf of the Board, except as authorized by ordinance or resolution by the Board.”
- F.A.99.** An independent contractor was verbally contracted, by a Board member, to conduct a personnel investigation into the alleged physical altercation between the Fire Chief and a NCCFD employee.
- F.A.100.** The Board did not vote to enter into a contract with the independent contractor for the investigative services.
- F.A.101.** A Board member was asked by the Jury what protected the NCCFD from possibly incurring excessive costs for the contractor’s services. The Board member replied, “... we knew it wasn’t going to cost that much.”
- F.A.102.** The NCCFD subsequently paid the independent contractor for the investigation, preparation, and presentation of a report without a contract in place.
- F.A.103.** A Board member kept the original investigation report in his home for an extended period of time.
- F.A.104.** On February 26, 2008, the NCCFD executed a contract with a private individual, titled, *Independent Clerical Contractor Agreement* (Agreement).
- F.A.105.** The Agreement was executed by the Fire Chief on behalf of the NCCFD.
- F.A.106.** There is no record of the Board approving the Agreement and a subsequent Amendment to the Agreement.
- F.A.107.** Neither the Agreement nor the subsequent Amendment specifies a minimum or maximum number of hours to be worked by the contractor within a specified time period.

Racially Insensitive Material Circulated

F.A.108. Section 1.4.13 of the *Nevada County Consolidated Fire District Personnel Code* (Personnel Code), titled “*Electronic Communications Systems Policy*” states, in part,

“Electronic communications, including the contents of NCCFD owned computers, telephones, and facsimiles are the properties of the District. ...This policy is meant to set forth guidelines regarding access to and disclosure of information/messages sent or received by NCCFD employees using the system. ...The Internet, e-mail, phone mail or any other communication or information system of NCCFD is not to be used in any way that may be disruptive, offensive to others, or harmful to morale. Violators of this policy will be subject to disciplinary action, up to and including discharge, for any violation reasonably believed to have been committed.”

“NCCFD treats all computer files, including e-mail sent or received, as District-related information. NCCFD has the capability and reserves the right, with or without notice, to access monitor, review, copy, and/or delete any computer files, including e-mail sent or received... If employees make incidental use of the computer system for personal files or e-mail, employees should not expect personal files or e-mail to be protected from review by the District. Accordingly, employees should not use the computer systems to create or transmit any information they wish to keep private...”

“...Use of the computer system to engage in any communications that are in violation of this or any NCCFD policy is strictly prohibited. NCCFD prohibits the display or transmission of sexually explicit images, messages, cartoons (sic), or any transmission or use of communications that contain profane or offensive language, ethnic slurs, racial epithets, or anything that may be construed as harassment, or disparagement of others based on their race, color, national origin...”

F.A.109. On Monday, November 5, 2012, a candidate for a position on the NCCFD Board, forwarded an e-mail, titled “Hooked on Ebonics?” containing a video segment to a Board member.

F.A.110. In the General Election held on Tuesday, November 6, 2012, the candidate was elected to a four-year term as a member of the Board.

- F.A.111.** The Board member forwarded the e-mail to the Local 3800 President, stating, “Hey, [Local 3800 President], you need to watch this, it is like talking with our administration!!!”
- F.A.112.** The administrative staff of the NCCFD has a staff member who is of African-American ethnicity.
- F.A.113.** The Board member is on the Personnel Committee, responsible for negotiating employee collective bargaining agreements with representatives of Local 3800, including the Local 3800 President.
- F.A.114.** On Friday, November 9, 2012, the Local 3800 President forwarded the e-mail to a Battalion Chief of the NCCFD, utilizing the NCCFD e-mail system.
- F.A.115.** On Friday, November 9, 2012, the Local 3800 President was an employee of the NCCFD.
- F.A.116.** The Nevada County Professional Firefighters, Local 3800 is an affiliate of the International Association of Fire Fighters (IAFF).
- F.A.117.** The IAFF website, www.iaff.org, states, in part,

“The International Association of Fire Fighters’ policy concerning discrimination and harassment is clear and unambiguous—the IAFF is opposed to any kind of discrimination...”

Closed Sessions of the Board

- F.A.118.** In the General Election of November 6, 2012, two new members were elected to the Board.
- F.A.119.** The Board met in closed session during a regularly scheduled meeting on November 15, 2012.
- F.A.120.** The Vice-Chairman of the Board invited two members of the public, identified as the two top vote-getters in the election, into the closed session.
- F.A.121.** The Nevada County Elections Office had not yet certified the results of the General Election of November 6, 2012 as of the Board’s meeting date.
- F.A.122.** NCCFD staff, citing provisions of the Brown Act, cautioned the Board not to invite the two members of the public into the closed session.

- F.A.123.** The Vice-Chairman publicly disagreed with the NCCFD staff and continued to insist the two members of the public be included in the closed session.
- F.A.124.** After discussion, the Board entered into closed session. The two members of the public did not attend the closed session.
- F.A.125.** The Board met in closed session during a regularly scheduled meeting on December 20, 2012.
- F.A.126.** The Board admitted a member of the public, identified as the spouse of a NCCFD employee, into the closed session.
- F.A.127.** There is no record of the NCCFD's legal counsel being present at either the meeting of November 15, 2012 or December 20, 2012.
- F.A.128.** *46 Ops. Cal. Atty. Gen. 34,35 (1965)* of the *Opinions of the Attorney General of California* states that interested members of the public may not be admitted to a closed session of the governing board while the remainder of the public is excluded.

Hiring of Finance Administrative Assistant

- F.A.129.** Section 2.2.5 of the Personnel Code, titled "*Notification of the Board*" states, in part,
- "Whenever a vacancy occurs..., the Chief shall notify the Board in writing..."
- F.A.130.** Section 2.2.1 of the Personnel Code, titled "*Hiring Procedures General*" states, in part,
- "(a) Hiring procedures shall be competitive and by such character as fairly to test and determine the qualifications, fitness and ability of competitors actually to perform the duties of the class or position for which they seek appointment."
- F.A.131.** Section 2.2.2 of the Personnel Code, titled "*Policy Regarding Open Versus Promotional Hiring*" states,
- "(a) The Board shall determine whether a vacant position in the Classified Service shall be filled by open or promotional examination.

(b) Selection by Promotional Examination may be used when it appears to the Board that there are sufficient qualified employees to provide a competitive selection likely to produce a highly qualified employee to fill the position.

(c) Otherwise selection shall be by Open Examination.”

F.A.132. Section 2.2.6 of the Personnel Code, titled “*Announcement of Openings*” states, in part,

“...the Chief shall make public announcements of all job openings at least ten days prior to the closing date for acceptance of applications. The job announcement shall be posted at all staffed District facilities...”

F.A.133. The Board met in a regularly scheduled meeting on December 20, 2012.

F.A.134. This meeting was attended by three members of the Jury.

F.A.135. On a motion of the Vice-Chairman, and on a roll-call vote, the Board passed *Nevada County Consolidated Fire District Resolution 12-28 (R12-28)*, establishing “the Position and Job Description for a Part-Time Classified, Permanent Finance Administrative Assistant.”

F.A.136. The NCCFD has no record of any notification from the Chief to the Board regarding a vacancy for the job position of Part-Time Classified Permanent Finance Administrative Assistant.

F.A.137. R12-28 does not include any language in which an individual is named to fill this position. There was no action taken by the Board to fill this position with any individual.

F.A.138. A Board member asked if the NCCFD should make a public announcement of the job vacancy. After discussion, the Board took no action on the Board member’s question.

F.A.139. The NCCFD has no record of a public announcement of an open or promotional examination for the position of Part-Time Classified Permanent Finance Administrative Assistant.

F.A.140. On January 3, 2013, the NCCFD hired an individual into the permanent position of Part-Time Classified, Permanent Finance Administrative Assistant.

F.A.141. The individual hired was an independent contractor with the NCCFD at the time of hiring. The individual hired was not an employee of the NCCFD.

- F.A.142.** The Board met in a regularly scheduled meeting on January 17, 2013.
- F.A.143.** The Board amended the draft Board Minutes of December 20, 2012, to reflect that the Board had offered the position of Part-Time Classified, Permanent Finance Administrative Assistant to a named individual. The Board, by unanimous vote, accepted the amended *Board Minutes of December 20, 2012*.
- F.A.144.** After this meeting, the NCCFD staff notified the Board Chairman that the Fire Chief had not notified or recommended to the Board of the need to fill the vacancy for the Part-Time Classified, Permanent Finance Administrative Assistant on December 20, 2012.
- F.A.145.** The NCCFD staff notified the Board Chairman that the Board had not taken any action to hire an individual to fill the position of Part-Time Classified, Permanent Finance Administrative Assistant on December 20, 2012.
- F.A.146.** The NCCFD staff voiced concern, "...just want to make sure we are doing business correctly and when we have a public document..., have a good understanding as to why/how it was done."
- F.A.147.** The Board Chairman replied, "Not a big deal. Everyone knew the intent of the Board. She is already hired. If we need to formalize the actual hiring of [Name] we can do it as a follow up procedural issue at the next board meeting."
- F.A.148.** There is no agenda item, on subsequent Board Agendas to date, for Board approval of the hiring of an individual into the position of Part-Time Classified, Permanent Finance Administrative Assistant.

Findings

- F.I.1.** The Board is dysfunctional, lacks credibility, and is wracked by discord, acrimony, back-biting, and perceived mistrust among Board members.
- F.I.2.** The Board, collectively and individually, has fallen woefully short in its roles and responsibilities as a governing board of a public agency.
- F.I.3.** The Board has failed to follow or has knowingly chosen to ignore the various NCCFD rules, ordinances, and regulations, as well as California's open meeting laws.
- F.I.4.** Members of the Board failed to take advantage of available training on their roles and responsibilities.

- F.I.5.** Some members of the Board knowingly chose to ignore provisions of the Brown Act and NCCFD internal by-laws, rules, regulations, and ordinances in order to affect public opinion during the special tax assessment election.
- F.I.6.** Board meetings are conducted in a manner lacking professionalism, civility, decorum, respect, and common courtesy between Board members.
- F.I.7.** There is a total breakdown of organizational structure and chain-of-command structure within the NCCFD.
- F.I.8** The Board has undermined the authority of the Fire Chief as the Chief Executive Officer of the NCCFD.
- F.I.9.** The Board has assumed the role of Chief Executive Officer of the NCCFD in violation of internal by-laws, rules, regulations, and ordinances.
- F.I.10.** The NCCFD lacks a comprehensive policy and procedures manual.
- F.I.11.** Many of the codes, by-laws, policies, rules, procedures, resolutions, and ordinances promulgated by the Board and administration of the NCCFD are inadequate, vague, and in conflict.
- F.I.12.** The conflicts in the various codes, by-laws, policies, rules, procedures, resolutions, and ordinances allow the Board to “pick and choose” the policies and procedures the Board wishes to follow and those it wants to ignore.
- F.I.13.** The Board failed to seek advice from and utilize its contracted legal counsel regarding potentially litigious issues.
- F.I.14.** The Board has shown its lack of fiduciary responsibility by repeatedly entering into financial agreements which lack protection for the NCCFD and fail to meet the requirements of their own rules, regulations, policies, procedures, and ordinances.
- F.I.15.** The Board has shown its lack of fiduciary responsibility by entering into employee collective bargaining agreements which led to excessive and unexpected expenditures by the NCCFD.
- F.I.16.** The lack of executive leadership of the NCCFD and the micromanagement of the NCCFD by the Board have created and fostered an unhealthy working environment for administrative staff, leading to hostility and mistrust among the administrative staff, the Board, and NCCFD employees.
- F.I.17.** The atmosphere of hostility and mistrust has caused the physical separation of administrative staff, leading to additional time and effort being expended to provide administrative services.

- F.I.18.** Some members of the Board have exhibited a lack of civility, decorum, and respect toward the employees of the NCCFD.
- F.I.19.** Board members should be held to a higher standard of behavior due to their election by citizens of the NCCFD to positions of public trust.
- F.I.20.** The Board and NCCFD administration have failed to investigate and adjudicate allegations of employee violations of the NCCFD rules, regulations, policy, procedures, and ordinances.
- F.I.21.** The closeness of the personal relationship between some Board members and the administration of Local 3800 places the Board's credibility in question during collective bargaining with Local 3800.
- F.I.22.** Not only is the circulation of racially offensive material by the Local 3800 President in violation of the human relation tenets promulgated by the International Association of Fire Fighters, it is also in direct conflict with the NCCFD personnel code.

Recommendations

- R.1.** All members of the Board should actively seek out and attend training regarding the roles and responsibilities of board members in special districts.
- R.2.** The Board should work with the Fire Chief to develop a comprehensive policy and procedures manual consistent with existing federal, state, and local laws and regulations.
- R.3.** The Board should ensure the policies and procedures manual includes thorough review of all contracts and agreements to protect the NCCFD from unexpected, unnecessary, and excessive expenditures.
- R.4.** The Board should actively seek the advice and expertise of legal counsel in all matters that may lead to potentially litigious issues.
- R.5.** The Board should ensure the Fire Chief has clear authority to implement the newly developed policy and procedures manual and to manage the day-to-day operation of the NCCFD.
- R.6.** The Board, collectively and individually, should not subvert the NCCFD organizational structure and chain of command and should not interject themselves into the management of the day-to-day operations of the NCCFD.

- R.7.** The Board should develop and implement policy to facilitate open and ongoing communication with NCCFD personnel.
- R.8.** The Board members should conduct themselves in a manner consistent with the public's expectations of persons elected to positions of public trust.
- R.9.** The Board should maintain a professional relationship with Local 3800 to ensure there is no perception of impropriety or undue influence on decision making by the Board.
- R.10.** The Board, management, and staff should forge an active partnership in the rebuilding of the NCCFD's public image and should actively communicate with their constituents to restore and maintain the public's trust.

Responses

Nevada County Consolidated Fire District Board of Directors: Date: September 13, 2013



Nevada County Consolidated Fire District

"Excellence in Emergency Service"

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August 15, 2013

To:

The Honorable Thomas M. Anderson
Presiding Judge of the Grand Jury
Nevada County Superior Court
201 Church Street
Nevada City, CA 95959

The Nevada County Consolidated Fire District Board of Directors, as required by law, would like to respond to the Nevada County Grand Jury Report of June 11, 2013 on the subject of the Nevada County Consolidated Fire District Board of Directors.

The findings and recommendations of the Grand Jury Report will be addressed individually below.

FINDINGS:

Finding I. 1.

The Nevada County Consolidated Fire District Board of Directors is dysfunctional and is wracked by discord, acrimony, backbiting, and mistrust among Board Members.

Response I.1. The Nevada County Consolidated Fire District Board of Directors disagrees with this finding.

The Nevada County Consolidated Fire District Board of Directors rejects the Grand Jury assessment that the Board is dysfunctional. On the contrary, this Board has worked collectively to provide a uniform vision and positive direction for the District. In fact, this Board has done so by unanimous vote when making key decisions. It is not uncommon to have difference of opinions and/or disagreements that may occur when serving on any type of board. However, it is that ability to bring together a diverse group of citizens who are willing to serve and bring their unique perspectives and talents to bring about change. It is clearly evident that all members this board are committed, and even further, care passionately about the Nevada County Consolidated Fire District.

ACTION TAKEN:

In order to improve our service as Board Members, the Board is continuously working on our communication skills with one another and also by requesting the assistance of the District's legal counsel, when necessary. The seven Board members are willing to receive ongoing training so as to benefit the Board in fulfilling its duties and responsibilities.

Finding I.2.

The Nevada County Consolidated Fire District Board of Directors, both collectively and individually, have fallen woefully short in their roles and responsibilities as board members of a public agency.

Response I.2. The Nevada County Consolidated Fire District Board of Directors disagrees with this finding.

The Nevada County Consolidated Fire District Board of Directors have not fallen short in their roles and responsibilities, but rather, had to take a leadership role to address the following critical issues:

1. Over the past two years, the NCCFD has suffered from a series of dramatic and significant events which occurred, due to the loss of its entire senior leadership, including our Fire Chief, two Battalion Chiefs, a Division Chief, the Human Resources Director, and the Board Secretary. The personnel left either due to retirements or resignations for a variety of reasons.
2. Exceptional decreases in tax revenue that threatened to significantly reduce the scope and scale of emergency services to our community.

ACTION TAKEN:

Because of the series of events beyond our control and occurring over this same period of time, the Nevada County Consolidated Fire District Board of Directors was called upon to take action far beyond the limited roles normally expected of Boards of Directors driving a unified effort by all District employees to pass a Tax Initiative to preserve existing emergency services to our constituents.

Individual Directors stepped into the leadership vacuum to provide coaching, experience and support for firefighting staff that had been poorly developed for leadership roles by previous management. This action also led to discovering significant problems in District operations, policies, and procedures.

An ad hoc Board Committee was formed to work with Joint Operational Area partners, Grass Valley and Nevada City, in place of departed experienced staff to fully understand, evaluate and preserve joint operational processes. This corrective action was taken to protect and benefit all citizens of Western Nevada County, actually strengthening our operations at a time when these operations could have fallen apart.

In February of 2013, the Board turned to an outside consultant, FireForceOne, and met its Director Ronny Coleman, a nationally known expert in Fire Management. FireForceOne was hired by the Nevada County Consolidated Fire District to conduct a nationwide search for the recruitment and appointment of the District's next Fire Chief. As an adjunct to that charge, FireForceOne determined that it was critical to the successful appointment of the new Fire Chief that a clear understanding of the pertinent historical factors and current issues facing the District be identified. Therefore, FireForceOne conducted internal and external interviews of the District's various stakeholders. Interviews included all District Board Members, all District Chief Officers, a significant number of rank and file members at all ranks and fire and administrative employees of the cities of Nevada City and Grass Valley.

A key finding of this effort was the need for leadership that went beyond understanding how to fight fires, but also brought heightened attention to the management issues and development of people and focused as well on significant improvements in District policies and processes. The Board's goal was to take the district beyond the realm of a patchwork of previously independent fire districts into that of a well managed, modern and professional emergency service. As a result of FireForceOne's consultant efforts, job qualifications for a new Fire Chief were established and a national search was initiated. In July 2013, the hiring of a new Fire Chief occurred meeting these requirements.

Finding I.3.

The Board has failed to follow or has knowingly chosen to ignore the various NCCFD rules, ordinances, and regulations, as well as California's open meeting laws.

Response I.3. The Nevada County Consolidated Fire District Board of Directors partially agrees with this finding.

The Board has not purposely failed or chosen to ignore the various NCCFD rules, ordinances, and regulations, as well as California's Open Meeting Laws. The Board acknowledges huge challenges that the District faced over the past two years as presented above. There is no question that both as individuals and as a Board, we have made inadvertent mistakes. Without sufficient staff support and without formal expertise and counsel, errors may have occurred.

The Board has made a due diligence effort to understand and operate within existing policies and procedures. Recognizing the need, District legal counsel became more actively engaged in all areas of Board activity, including development of Board Meeting Agendas and Meeting procedures and/or operations starting in March of 2012. The seven Directors on the Board fully recognize the need to improve and continue their commitment to do so.

Finding I.4.

Members of the Board failed to take advantage of available training on their roles and responsibilities.

Response I.4. The Nevada County Consolidated Fire District Board of Directors agrees with this Finding.

Currently all members of the Board have attended the required training, but the focus of our efforts has been to try to understand the shape, scale, and scope of the issues facing the District. With a workload far beyond expectations, Board Members may have inadvertently prioritized non-essential training too low.

Finding I.5

Some member of the Board knowingly chose to ignore provisions of the Brown Act and NCCFD internal by-laws, rules regulation, and ordinances in order to affect public opinion during the special tax initiative.

Response I.5. The Nevada County Consolidated Fire District Board of Directors partially agrees with this finding.

Many members of this Board repeatedly have urged caution with communications and procedural details to minimize the potential for violation of California's open meeting laws. While errors may have occurred, the Board rejects the idea that members knowingly ignored these regulations. Since March, 2013, integration of Legal Counsel into Agenda planning and Board Meeting procedures and processes has led the Board to avoid conflicts and any potential violations of the Brown Act from occurring. Since June of 2013 Legal Counsel has been asked to attend all Board meetings to ensure that additional errors are avoided.

Finding I.6.

Board meetings are conducted in a manner lacking professionalism, civility, decorum, respect, and common courtesy between Board members.

Response I.6. The Nevada County Consolidated Fire District Board of Directors disagrees with this Finding.

Free and open disagreement is the linchpin of democracy. Open and honest debate is necessary to the development of politically acceptable solutions. Board Members choose to serve in order to provide direction and oversight. There are times when conflict and strong opinions surface when addressing very difficult issues and also when dealing with significant stress and the possibility of change. Yet, working through this conflict can result in more aggressive questioning, more detailed oversight, and better solutions. The Board does not encourage personal conflict, but rather encourages working beyond conflict to create a better District.

Finding I.7.

There is a complete breakdown of organizational structure and chain of command within the Nevada County Consolidated Fire District.

Response I.7. The Nevada County Consolidated Fire District Board of Directors partially agrees with this Finding. The Board acknowledges there was a lack of leadership that occurred in February 2012, Local 3800 of the Nevada County Professional Firefighters Union submitted a "No Confidence" vote to the Nevada County Consolidated Fire District Board of Directors against its then Chief. This action, and a subsequent alleged physical altercation between the Chief and a District employee, led to his early retirement which significantly impacted the chain of command in the District. The Board, in an effort to obtain the time necessary to initiate a proper search for a quality Fire Chief, requested the District Training Officer to assume the role of Interim Chief. Further it quickly became apparent with the unexpected loss of our entire senior leadership, including our Fire Chief, two Battalion Chiefs, a Division Chief, the Human Resources Director, and the Board Secretary, that the District was in a severe crisis.

The Board is troubled by the statement that "there has been a complete breakdown of organizational structure and chain of command..." which completely ignores the very credible job that has been done by all firefighters that have stepped into leadership roles because of the departure of the entire cadre of senior leadership in the last two years. This District has not faltered in its mission because of the quality of NCCFD firefighters who are still delivering incredible emergency service to our constituents, saving lives, delivering babies, extinguishing wildfires with the confidence of excellent training and well seasoned experience. The Grand Jury does a grave disservice with the wording of this Finding, whereby creating unnecessary doubt in the minds of our community about our firefighters' ability to deliver quality emergency services when needed.

Finding I.8.

The Board has undermined the authority of the Fire Chief as the Chief Executive Officer of the NCCFD.

Response I.8. The Board does not agree with Finding I.8. as it makes it sound like the entire Board of Directors set out on a purposeful mission to undermine the authority of the Fire Chief. This is not the case. For many years the Board had respected the chain of command and permitted the leadership to handle its internal issues without undo interference. By late 2012, after the resignation of the Fire Chief and further efforts by the Board to understand the internal working of the District, became apparent that significant employee issues, even conflicts, had long gone unattended, poorly addressed and/or ignored. In addition, there had been no quality succession planning and developmental training implemented. The leadership vacuum left was difficult to fill. There was a crisis at hand and the level of existing expertise was insufficient to meet the needs of the District.

Finding I.9

The Nevada County Consolidated Fire District Board of Directors has and assumed the role in violation of internal by-laws and policies and procedures.

Response I.9

The Board does not agree with Finding 1.9.

As an oversight Board, no Member is on site observing employee activities on a day to day basis, and if issues are not clearly and quickly brought to the Board Meeting in formal Staff Reports, it is difficult to see how relevant information can be relayed to a Board that is maintaining the chain of command. In a situation where temporary leadership lacks, some of the experience necessary, the Board acknowledges that individuals from the Board may have provided an unprecedented level of support, advice, and direction in attempts to fill the perceived leadership vacuum. Even today, it is safe to say that no Board Member knows the full story. The Board of Directors is very cognizant and sensitive to the impact this unfortunate chain of events had on the District's employees, its constituents, and even to the Board itself.

Finding I.10

The Nevada County Consolidated Fire District lacks a comprehensive policy and procedures manual.

The Nevada County Consolidated Fire District Board of Directors agrees with this Finding.

Finding I.11

Many of the codes, by-laws, policies, rules, procedures, resolutions, and ordinances are inadequate, vague, and in conflict.

The Nevada County Consolidated Fire District Board of Directors agrees with this Finding.

Finding I.12. The conflicts in the of the codes, by-laws, policies, rules, procedures, resolutions, and ordinances allow the Board to "pick and choose" the policies and procedures the Board wishes to follow and those it wants to ignore.

Response I.12 The Nevada County Consolidated Fire District Board of Directors strongly disagrees with this Finding.

Existing operational structures are a legacy of the consolidation process over the years. The Board formally recognized this issue in late 2012 and began addressing this issue in February 2013 purchasing an external software package and service to more fully ensure compliance with Federal, State and local regulations. When fully developed, probably in 2014, the District Policies and Procedures will more closely align to "best in class" practices.

This Board is adamant in its desire to create a District that is transparent to our constituents and community, as well as fair and supportive of our employees.

Finding I.13

The Board failed to seek advice from and utilize its contracted legal counsel regarding potentially litigious issues.

Response I.13 The Nevada County Consolidated Fire District Board of Directors agrees with these Findings.

The Board acknowledges that this had been the general practice within the District in the past. However, beginning with the "No Confidence" vote issue discussed above in 2012, the District has used Legal Counsel much more frequently to avoid potential problems, liability and/or conflicts. Since March 2013, Legal Counsel has been a part of all Board Meetings, including reviewing Board Agendas, culminating with a formal vote to have Counsel present at all Board Meetings in June 2013.

Finding I.14

The Board has shown its lack of fiduciary responsibility by repeatedly entering into financial agreements which lack protection for the NCCFD and fail to meet the requirements of their own rules, regulations, policies, procedures and ordinances.

Response I.14. The Nevada County Consolidated Fire District Board of Directors disagrees with these Findings.

The Board disagrees with this finding as this finding uses the term "repeatedly" when suggesting that NCCFD either enters into financial agreements which lack protection for the District or fail to meet the requirements of its own rules, regulations, policies, procedures and ordinances. However, that data is incomplete as the findings providing supporting data for only four issues.

The Board would like to address the three issues in detail: 1) the contractual suspension and reinstatement of "merit increases", 2) the hiring of a private investigator without publicly posting the opportunity and entertaining multiple candidates to investigate alleged violation of district rules and alleged criminal conduct by a district officer, 3) and the hiring of a district contractor as a permanent, part time employee again without publicly posting the opportunity and entertaining multiple candidates.

1) In late 2011, the District was suffering from a very severe budget shortfall due to the cumulative effects of the economic downturn that began in 2008. Many cost cutting efforts had already been taken, including reduction of safety training, postponement of building and vehicle maintenance and travel. Re-evaluating the budget for 2011-2012, the District could see that it was faced with an unsustainable financial situation; and that, by the end of the fiscal year, in July 2012, the District would have spent down its entire financial reserves and leaving the District in debt. Furthermore, projecting expected tax revenues for the budget year 2012-2013, the District, without reserves and owning budget deficit, would face drastic cuts to its services to its stakeholders. At minimum, the District would have to lay off six firefighters and permanently close at least one fire station. Any unforeseen changes in the District would mean further service cuts. This is the basis for the 2012 Tax Initiative.

However, careful analysis indicated that even with all the reductions already made, the cost of running the election would dissipate District reserves so fast that it would be in the hole long before the end of the fiscal year, and additional savings had to be found that would keep NCCFD solvent until the outcome of the election could be determined. Thus, in late 2011, Local 3800 agreed to suspend "merit raises" for any individuals that earned them. It must be clear that merit raises are an integral part of a firefighter's career. Eliminating them would completely restructure all agreements with the firefighters, and that, even when in place for a short period of time, suspended merit increases can significantly impact a firefighters career compensation and even their retirement program.

During the first six months of 2012, eight firefighters earned merit increases, but as per the MOU these eight individuals did not receive them. This saved the District about \$25,000 by the end of the fiscal year; and after borrowing from restricted fund, NCCFD finished the 2011-2012 fiscal year with only \$15,000 in its account.

In July, once the District knew it could count on the funds generated by the Tax Initiative, the Board discussed the unfairness of letting these six individuals be denied their earned merit increases while other District employees had not made similar sacrifices. The Board acted to reinstate these employees merit increase as of July 1, 2012 rather than waiting until January 1, 2013 as indicated in the MOU, ensuring that their compensation was only delayed by six months. This decision was reported in the press without it ever being noted that there were only six individuals impacted by the action, nor was there any comment

about the unfairness of the original agreement. The District owes a debt of gratitude to these six firefighters. It was their sacrifice that permitted NCCFD to end the 2011-2012 fiscal year solvent.

The Board believes that the early reinstatement of merit increases, when funds became available, was a fair, open and honest way of demonstrating our appreciation for their individual sacrifices, and restarting their career tracks.

2) In March of 2012, the members of an ad hoc Board Committee including the Board Chair became aware of alleged violation of district rules and alleged criminal conduct by a district officer. The Board Chair immediately contacted District Counsel to determine the best way of addressing this event to protect the rights of the parties involved and the District's interests. It was determined that in order to proceed, the District had to move quickly to obtain an external investigation of the incident.

A Special Meeting of the Board was held on Thursday, March 20, 2012 and, in Closed Session to "Review Complaint Against A Public Employee," and the Board determined that the ad hoc committee should proceed with an investigation, and granted permission for the committee to find an investigator to independently investigate the incident and provide a report for Board discussion and action. It was reported out of closed session that the ad hoc committee would follow up on the complaint. To protect the privacy of the employees involved, and to proceed as rapidly as possible to determine the risk to the District, the normal process for obtaining contractors for the formal investigation was not followed. The full Board approved the contract for the investigation at the next regular Board Meeting. It is important to note that this investigation cost the District \$ \$936.84, and our Personnel Code specifically states that "The purchasing officer may, without bidding or prior Board approval, make single purchases not to exceed \$5000." The Board believes that this exemption applies to the Board as well.

3) In March of 2012, after reviewing the contract of a part-time contractor, the Deputy Chief determined that this contractor's status might be approaching the state mandated limits for consideration as a "temporary" employee. However, since the Administration staff had recently been reduced by half, and since the knowledge and skill possessed by the "temporary" employee could not easily be replaced, it would be best for the District to employ the contractor as a permanent employee, saving costs, training and time at a moment when the District's clerical needs were critical. This proposal was approved for these reasons by the Board. It is the Board's intention to follow all of the District's processes and procedures whenever possible, but the Board also recognizes that those policies and procedures do not cover all the exigencies that may occur. We will always reserve the right to respond to unusual, timely circumstances as necessary to protect the District. The Board will also seek legal advice from District Legal Counsel when necessary to avoid potential problems, liabilities and conflicts.

Finding I.15.

The Board has shown its lack of fiduciary responsibility by entering into employee collective bargaining agreements which led to excessive and unexpected expenditures by the NCCFD.

Response I.15. The Nevada County Consolidated Fire District Board of Directors disagrees with this Finding.

The Grand Jury has accurately presented the facts in the case of the Employee Health Savings Accounts (HSA), but has incorrectly interpreted those facts. HSA accounts are uniquely beneficial to employees with certain specific medical insurance needs, and also provide a unique cost savings to the district over the cost of traditional Medical Insurance programs. These facts and benefits to both the employee and the District were thoroughly discussed before Resolution 11-17 was passed, and during the re-approval of those contracts in 2012 for the current year. Due to the timing of required payments for the HSA contracts, individuals terminating their service with NCCFD may "appear" to receive an undeserved cash payment.

This occurred for the first time in 2012, and future negotiations with service providers and collective bargaining agreements will attempt to address this perception, but the overall cost savings to the district of HSA accounts is still substantial. The Board stands by its decision on this issue; expenditures were neither unexpected nor excessive.

Finding I.16.

The lack of executive leadership of the NCCFD and the micromanagement of the NCCFD by the Board have created and fostered an unhealthy working environment for administrative staff, leading to hostility and mistrust among the administrative staff, the Board, and NCCFD employees.

Response I.16. The Nevada County Consolidated Fire District Board of Directors agrees with these Findings.

The Board recognizes that the loss of senior leadership and financial hardship have taken a toll on the working environment for all District employees and to an over involvement of the Board in District operations.

In April, 2013 the Board authorized the search and acquisition of an Interim Chief when Division Chief chose to retire. The new Interim Chief was hired on June 26, 2013. The Interim Chief was specifically given the task of re-establishing the appropriate chain of command in anticipation of acquiring a permanent Fire Chief within 90 days. The newly hired Fire Chief took office on August 5, 2013.

Finding I.17.

The atmosphere of hostility and mistrust has caused the physical separation of administrative staff, leading to additional time and effort being expended to provide administrative services.

Response I.17. The Nevada County Consolidated Fire District Board of Directors disagrees with this Finding.

As stated, this finding, building on Finding I.16, clearly suggest that the movement of some staff to remote offices was a result of the lack of executive leadership and Board micro-management. This was not the case. Previous District leadership, at a time when a majority of the current Board was not even on the Board, chose to separate administrative staff as a way of solving personnel issues. It is clear, in hindsight, that that decision was a poor one, the legacy of which has further exacerbated District issues. New executive leadership has addressed the issue. The administrative staff is no longer physically separated as of August 8, 2013. All administrative staff is located at Station 91, 11329 McCourtney Road, in Grass Valley.

Finding I.18. Some members of the Board have exhibited a lack of civility, decorum, and respect toward the employees of NCCFD.

Response I.18. The Nevada County Consolidated Fire District Board of Directors disagrees with this Finding.

The Board has never heard a formal complaint from any employee of the District indicating a Board Member has acted improperly toward an employee. The Board disagrees with this finding because it feels it cannot take any responsibility for an Individual Board Member's demeanor.

Finding I.19.

Board members should be held to a higher standard of behavior due to their election by citizens of the NCCFD to positions of public trust.

Response I.19. The Nevada County Consolidated Fire District Board of Directors disagrees with this Finding.

Board Members are elected officials, and as such are not subject to Board sanction, discipline or punishment. In addition, even healthy Board discussions may become heated when divergent perspectives come in conflict. Our democratic process does not regulate speech, only actions. While the Board recognizes its collective responsibility, it has no authority to impose any "standard" on an individual member.

Finding I.20.

The Board and NCCFD administration have failed to investigate and adjudicate allegations of employee violations of the NCCFD rules, regulations, policy, procedures, and ordinances.

Response I.20. The Nevada County Consolidated Fire District Board of Directors disagrees with this Finding.

The Nevada County Consolidated Fire District Board of Directors can find no statement of facts in the Grand Jury Report that indicates the Board or the NCCFD administration have failed to investigate and adjudicate allegations of employee violations as indicated in this Finding. It is impossible to determine what is being referenced in this Finding. The Board must disagree with this Finding because it is vague and unsubstantiated.

Finding I.21.

The closeness of the personal relationship between some Board members and the administration of Local 3800 places the Board's credibility in question during collective bargaining with Local 3800.

Response I.21. The Nevada County Consolidated Fire District Board of Directors disagrees with this Finding. The Nevada County Consolidated Fire District Board of Directors disagrees with this Finding. This is a very small community; and the Fire Service in general is an even smaller and tighter community with similar interests and opinions. During the recent interviewing process, essentially all of the candidates had been Union members in their career, and several had been Union officers. Nearly all of our Board Members have been members of the Fire or Police service or both, and several have been Board members for many years. Friendship is not a viable reason for doubting the Board's credibility. What is important is how a friendship with a Union member or a member of the Administration is managed by the individual Board Member. Again, the Board has no authority to manage or regulate that friendship.

Finding I.22.

Not only is the circulation of racially offensive material by the Local 3800 President in violation of the human relation tenets promulgated by the international association of Fire Fighters, it is also in direct conflict with the NCCFD personnel code.

Response I.22. The Nevada County Consolidated Fire District Board of Directors agrees with this Finding.

All The Board members have all attended training and are willing to receive ongoing training so as to benefit the Board in fulfilling its duties and responsibilities.

Grand Jury Recommendations

1. All members of the Board should actively seek out and attend training regardless of the roles and responsibilities in Special Districts.

Response:

Training contractors have been identified. Appropriate training will be identified and be made available to all board members in the next ninety days.

2. The Board should work with the Fire Chief to develop a comprehensive policy and procedures manual consistent with existing federal, state, and local laws.

Response:

The Nevada County Consolidated Fire District Board of Directors formally recognized the need for improved policy and procedures in January 2013. The Board has also authorized the purchase and implementation of Lexipol Comprehensive Emergency Services Policy Manual. The Lexipol addresses issues related to risk management, liability, safety and best practices for emergency service suppliers. It will help the District comply with current statutory laws, stay abreast of court decisions and keep up with the evolution of best practices.

A committee consisting of a Board Member, District administrators and Labor representatives has begun working through all the details to ensure that critical issues relevant to the District are fully integrated into the system. Once this complex work is completed in 2014, the finished product will be submitted to both the Board of Directors and local bargaining units for approval and implementation.

3. The Board should ensure the policies and procedures manual includes thorough review of all contracts and agreements to protect the NCCFD from unexpected, unnecessary, and excessive expenditures.

Response:

The Nevada County Consolidated Fire District Board of Directors recognizes the need for review and update of ficial policies and procedures. The Board has already initiated work with the District Administration to review existing policies and processes. It is expected that this effort will integrate best practices for financial management as developed in cooperation with District

Auditors, and enhance financial transparency. This effort will take a significant amount of work by an administration that is currently working on a significant number of critical issues. The work will be addressed as part of the policy and procedure work in recommendation 2.

4. The Board should actively seek the advice and expertise of legal counsel in all matters that may lead to potentially litigious issues.

Response:

The Board formally requested District Counsel be present at all Board Meetings in July. Current practice is now to have Counsel review all agendas.

5. The Board should ensure the Fire Chief has clear authority to implement the newly developed policy and procedures manual and to manage the day-to-day operation of the NCCFD.

Response:

The Employment Contract for the New NCCFD Fire Chief, as of August 5, 2013 states:

A. The Fire Chief shall serve as the principal and highest ranking administrator and official for District and shall be in charge of the day to day operations of District, including without limitation, the supervision of all other District employees and shall report to, and be directly accountable to, the Board of Directors.

B. The Fire Chief shall perform all duties prescribed by the laws, rules, and regulations of the State of California, the United States of America, and the District's Board, and shall carry out all lawful directions of the Board. The Fire Chief is not required to take direction from a single Board member or carry out any orders by a single Board member. Directions will come from the Board of Directors through the Chairman of the Board.

C. Duties and responsibilities shall be as set forth in the job description for the position to which the Fire Chief is assigned, or as may be revised from time to time by the Board after consultation with the Fire Chief, as determined necessary for the effective and efficient operations of the District. (For current assignment, see Appendix "A".)

6. The Board, collectively and individually, should not subvert the NCCFD organizational structure and chain of command and should not interject themselves into the management of the day-to-day operations of the NCCFD.

Response:

The interactions of the Board with the Fire Chief are clearly spelled out in Section C of the Fire Chief's contract mentioned above. The actions that the Grand Jury refers to in this Finding 1.9 took place over about a three to four month period. Further actions by the Board other than to provide oversight have ceased in this manner. The hiring of an experienced organizational manager as Interim Chief with excellent communication skills and following the chain of command have helped assure that such mistakes have not reoccurred. The new Fire Chief has been hired and we expect that our new permanent Fire Chief will ensure that organizational roles are fully respected.

7. The Board should develop and implement policy to facilitate open and ongoing communication with NCCFD personnel.

Response:

The previous Grand Jury Recommendation clearly insists that the Chief be recognized as the person responsible for all day-to-day operations at NCCFD. Beyond that, any citizen or employee of the District, under the Brown Act, is free to address the Board at the appropriate time in any formal Board Meeting.

Facilitating "open and ongoing communications with NCCFD personnel beyond that allowed in public meetings might quite easily be interpreted as "subverting the NCCFD organization structure and chain of command." It is therefore very difficult to understand what the Grand Jury is proposing by imposing this recommendation on the Board. For this reason, no further action will be taken on Recommendation 7 will not be implemented.

8. The Board members should conduct themselves in a manner consistent with the public's expectation of persons elected to positions of public trust.

Response:

It is apparently not clear to the Grand Jury that the behavior of individual Board Members is not something that can be mandated by the Board of Directors of NCCFD or even by the Grand Jury. As indicated in Recommendation 1. The Board, as an entity, can and will affirm that the appropriate civility and decorum be maintained at all times and all employees, participating citizens and fellow Board Members are treated with respect; it will also ensure that Board members receive relevant training on the responsibilities of Special District Board Members. But it must be clearly understood that the Board cannot take responsibility for the comments, demeanor, or actions of any specific Board Member. This recommendation will not be implemented.

9. The Board should maintain a professional relationship with Local 3800 to ensure there is no perception of undue influence on decision making by the Board.

Response:

To start with, The Nevada County Consolidated Fire District Board of Directors believes that this recommendation is badly worded, and therefore it is uncertain as to what is actually being recommended. Perhaps it should read "undue influence on decisions made by the Board."

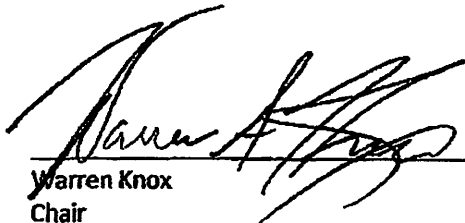
The Board can only assume that the Grand Jury is making this recommendation in reference to Finding I. 21. above. If this is so, then the Board, as an entity can and will strive to develop and maintain a strong, cooperative, open, and professional relationship with Local 3800. If, however, the Grand Jury is suggesting that any individual Board Member refrain from developing or maintaining close personal relationships with a Local 3800 member or officer, or a close personal relationship with any other member of the community, then this Board can only state that such a recommendation will not be implemented.

10. The Board, management and staff should forge an active partnership in the rebuilding of NCCFD's public image and should actively communicate with their constituents to restore and maintain the public's trust.

Response:

The Nevada County Consolidated Fire District Board of Directors believes that it has already taken significant steps to identify and remedy critical issues within the District. It has engaged a nationally known expert consultant to assess the District's management needs, developed a job description that provides for the meeting of those needs. This process produced an outstanding group of management candidates to run the District. Consequently, the Board obtained the services of an experienced Fire Chief that has demonstrated his abilities as both an effective manager and leader. It has developed a partnership with Local 3800 on the implementation of a much more comprehensive set of policies and procedures using the Lexipol system to ensure clear operating principals in the future. And it has worked with our Joint Operational Area partners to ensure that the existing cooperative agreements continue to develop and maintain existing cost-effective emergency services to our community.

Although the Board did not agree with many of the findings listed in the Grand Jury Report, the Board is committed to providing quality service and will take the appropriate actions necessary to move forward in a positive manner. This is just the beginning of the new Nevada County Consolidated Fire District, and we believe it will only get better.



Warren Knox
Chair

For:
Nevada County Consolidated Fire District
Board of Directors

Special Districts

Truckee Donner Recreation and Park District

Nevada County Grand Jury Report with Responses
2012-2013

TRUCKEE-DONNER RECREATION AND PARK DISTRICT

Summary

The Truckee-Donner Recreation and Park District is an independent special district responsible for providing recreation and park programs in and around Truckee, California since 1963. The Truckee-Donner Recreation and Park District is governed by a Board of Directors elected by the district voters.

The Nevada County Grand Jury received a citizen's complaint regarding the Truckee-Donner Recreation and Park District. In the process of investigating this complaint, the Nevada County Grand Jury found the Truckee-Donner Recreation and Park District failed to consistently follow their policies, procedures, rules and regulations stated in the Truckee-Donner Recreation and Park District Handbook.

The Truckee-Donner Recreation and Park District Board of Directors should update existing policies and procedures, rules and regulations stated in the Truckee-Donner Recreation and Park District Handbook, including oversight.

Reasons for Investigation

The Nevada County Grand Jury (Jury) received a complaint about issues relevant to the operation of the Truckee-Donner Recreation and Park District (TDRPD).

The Jury has the authority to investigate special purpose assessment or taxing districts, including those commonly known as special districts, in Nevada County, pursuant to the California Penal Code.

Background

Special districts are a form of local government created by a community to meet a specific need. Most of California's special districts perform a single function such as sewage, water, fire protection, pest management, cemetery management, or park management. There are approximately 2,300 independent special districts in California, each governed by an independent board of directors elected by the voters of their district or appointed to a fixed term of office by either a city council or a county board of supervisors. There are 24 independent special districts in Nevada County.

The TDRPD is an independent special district supported by public funds. The TDRPD is governed by an elected Board of Directors (Board). The Board is responsible for setting policy and general administrative procedures. The Board meets on a monthly basis for regular meetings.

The TDRPD has 16 facilities and parks including the recently completed Community Recreation Center. The Community Recreation Center was completed at the end of 2010 and staff occupied the building at the beginning of 2011.

There are numerous programs offered by the TDRPD that provide recreation and services to kids, teens and adults. Some of the newer programs include a climbing wall, girls' volleyball and an adult softball league.

Procedures Followed

The Jury interviewed Board Members, TDRPD staff, staff of the Nevada County Auditor-Controller and members of the public. The Jury also reviewed various documents received from the TDRPD, Nevada County and the public.

Facts

Governance/Administration

- F.A.1.** The TDRPD is governed by a five-member Board elected by the Truckee-Donner Recreation and Park District voters. The members of the Board serve four-year terms.
- F.A.2.** The Board does not have by-laws.
- F.A.3.** The Board meets in regular session every month. These meetings take place at 6:00 p.m. on the fourth Thursday of each month and are open to the public.
- F.A.4.** All scheduled Board agendas and meetings are in compliance with *California Government Code* section 54950 et seq., commonly known as the *Ralph M. Brown Act* (Brown Act).
- F.A.5.** During the monthly Board meetings, members of the staff, including the management team are present according to minutes of the meetings.

- F.A.6.** The Board is responsible for setting policies and general administrative procedures.
- F.A.7.** The TDRPD has a policies and procedures handbook entitled, *Truckee-Donner Recreation and Park District Policy Handbook* (Handbook).
- F.A.8.** Some sections of the Handbook have been updated. The majority of the sections have not been updated since September 1995.
- F.A.9.** The General Manager (GM) is the executive officer of the TDRPD.
- F.A.10.** The GM is selected and appointed by the Board and is accountable to the Board.
- F.A.11.** The GM, under the direction of the Board, is responsible for the day to day operations of the TDRPD.
- F.A.12.** The GM is responsible to administer the policies and procedures of the TDRPD as set forth by the Board.
- F.A.13.** According to the TDRPD organizational chart, the administrative management staff (management) consists of a “General Manager, a Park Superintendent, a Recreation Superintendent, a District Clerk/HR Director, an IT Administrator/Safety Officer, and a Bookkeeper.”
- F.A.14.** The administrative management team meets once a week to review operations of the TDRPD.
- F.A.15.** As of February of 2013, TDRPD had 25 full-time employees and approximately 130 part-time and seasonal employees.
- F.A.16.** There is a TDRPD full-time employee with the title, District Clerk/HR (HR Director).
- F.A.17.** In the duties of an HR Director, said employee has limited authority.
- F.A.18.** The HR Director is the spouse of another TDRPD manager.

Community Center Security System

- F.A.19.** The construction plans for the Community Center included costs for a security and alarm system.
- F.A.20.** The alarm system was installed and functional when the Community Center was completed in 2010, but was not being used as all employees were not trained in its use.
- F.A.21.** The alarm system and the external surveillance cameras were not fully operational in the Community Center until the last quarter of 2012.
- F.A.22.** The Community Center is unoccupied several hours during the night.

Unlawful Harassment

- F.A.23.** Section 227.30 of the Handbook portion entitled *Unlawful Harassment* states:

“If an employee believes he/she has been unlawfully harassed, he/she may provide a written complaint to their supervisor, or the General Manager as soon as possible following the incident. His/her complaint should include details of the incident or incidents, names of the individuals involved and names of any witnesses. Supervisors will refer all harassment complaints to the General Manager. The District will immediately undertake effective, thorough and objective investigation of the harassment allegations.”

- F.A.24.** The TDRPD staff receives annual training regarding workplace harassment.
- F.A.25.** In December, 2010, a TDRPD manager overheard comments, perceived to be harassment.
- F.A.26.** The manager shared this information with another member of management.
- F.A.27.** The incident was verbally reported to the GM.
- F.A.28.** Approximately 30 days after the incident was reported, there was a meeting between the GM and the subject of the complaint.

- F.A.29.** A verbal warning was given to the subject of the complaint.
- F.A.30.** There is no record of any interviews or statements taken from any of the witnesses to or victims of the alleged harassment.
- F.A.31.** The subject of the complaint then personally contacted the alleged victims of the harassment.
- F.A.32.** Approximately 90 days after the initial verbal complaint of sexual harassment, the suspected harasser filed a written complaint of harassment against the employee that initiated the verbal complaint with the member of the management team.
- F.A.33.** The GM reviewed the written complaint and met with all involved parties.
- F.A.34.** The GM acknowledged to the Jury that the matter of perceived sexual harassment should have been addressed more promptly.
- F.A.35.** The GM did not advise the Board of either harassment complaint.

TDRPD Park Maintenance Facilities

- F.A.36.** TDRPD management staff and letters from the public attached to Board agenda identified several piers/docks along Donner Lake are in need of repairs due to safety concerns.
- F.A.37.** A TDRPD employee told the Jury some piers/docks were closed to the public due to safety issues.
- F.A.38.** A TDRPD employee told the Jury that there is no plan to repair the closed piers/docks.

Findings

- F.I.1.** The Jury found a lack of managerial oversight at TDRPD.
- F.I.2.** There is a lack of open communication between TDRPD management and the Board.

- F.I.3.** The lack of open communication between TDRPD management and the Board could lead to potential litigation.
- F.I.4.** There is a lack of timeliness in the investigation and adjudication of employee complaints.
- F.I.5.** There is a lack of timeliness in the training to employees on use of facility equipment.
- F.I.6.** Many of the policies, procedures, rules and regulations stated in the TDRPD Handbook are outdated.
- F.I.7.** There is no information regarding a plan to repair the piers/docks.

Recommendations

- R.1** The Board should update the TDRPD policies, procedures, rules and regulations.
- R.2** The Board should require the GM to report all issues, including harassment, to the Board.
- R.3** The Board should develop and implement policy to facilitate open and ongoing communication with TDRPD management.
- R.4** The Board should develop and implement policy to include proper training on the use of all facility equipment in a timely manner.
- R.5** The Board should develop and implement an ongoing evaluation process to insure all facility equipment is in good working order.

Responses

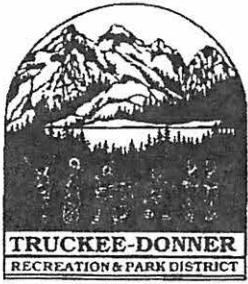
Truckee-Donner Recreation and Park District Board of Directors:

Due Date: September 28 2013

Special Districts

Nevada County Consolidated Fire District
Board of Directors

Nevada County Grand Jury Report with Responses
2012-2013



Truckee Donner Recreation and Park District

8924 Donner Pass Road, Truckee, California 96161

PHONE: (530) 582-7720 • FAX (530) 582-7724

General Manager
Steve Randall

September 6, 2013

The Honorable Thomas M. Anderson
Presiding Judge of the Grand Jury
Nevada County Superior Court
201 Church Street
Nevada City, CA 95959

Members of the Grand Jury of Nevada County

You have provided the Truckee Donner Recreation & Park District with a report dated June 24, 2013 on your findings from your investigation of the District.

The Truckee Donner Recreation & Park District Board of Directors reviewed your findings at a board meeting of the District and is providing a response as requested. Herewith is a copy of our response to your findings and recommendations.

Kristen York
Board Chairperson
Truckee Donner Recreation & Park District

Truckee Donner Recreation & Park District Response To Grand Jury Report

Finding F.1.1 The jury found a lack of managerial oversight at TDRPD.

Disagree

1. Staff meetings are held at every level of the District, from management, parks, recreation and part time staff. A quarterly staff meeting is held with all full time employees of the District to go over issues that affect the entire district.
2. Staff performance reviews are conducted on a regular basis.
3. The financial budget for the District is prepared by staff, reviewed by supervisory staff, management staff, board finance/audit committee and then presented to the entire Board of Directors for approval. The board finance/audit committee meets with management staff to go over the budget line item by line item prior to being presented to the Board of Directors. Budget includes revenues and expenditures.
4. A report from the park division on the district facilities is presented to the board on a monthly basis. The report details what has been completed in the prior month. Issues with facilities are agendized at board meetings for board action.
5. The District has a safety committee, made up of representatives from administration, parks, and recreation. They review all facilities on a yearly basis and present their written findings to the District for action.
6. A profit and loss report is generated for all recreation programs of the district. These reports include expenditures, revenues and recommendations for improving these programs.
7. Affected staff is required to complete harassment training and conflict of interest training every two years. The board of directors is required to complete conflict of interest training every two years.
8. District staff attends conferences, seminars and meetings to further their education and experience in their area of expertise.
9. Reports are provided to the Board of Directors along with background information so that the board may make an informed decision on various matters of the District.
10. The District board of directors and mid management staff and above conduct a retreat on a yearly basis to discuss the future of the district, issues and concerns, and budget and marketing.

Finding F.1.2. There is a lack of open communication between the TDRPD management and the Board

Disagree

The board of directors conducts a retreat with staff including management where open communication between the board and management takes place. Additionally there is a board meeting on a monthly basis where the board openly communicates with management staff. Management staff presents items for review and approval by the board on a regular basis. Input from staff is very important in the decision making process of the board. The board has various sub committees that deal with review and issues of the District. Management staff attends these meetings in their area of expertise. The general manager speaks with board members on a regular basis to keep

them informed of what is going on in the district. The general manager has an open door policy which includes the board, staff and the general public.

Finding F.1.3. The lack of open communication between TDRPD management and the Board could lead to potential litigation

Disagree

As stated above, there is open communication between management and the board of Directors. The General Manager communicates with the board chairperson on a regular basis to discuss areas of concern. Areas that have potential litigation are discussed with the entire board of directors. Additional matters of concern are discussed with the district's legal counsel. During the tenure of the general manager which is 28 years, the District has not been involved in any litigation.

Finding F.1.4. There is a lack of timeliness in the investigation and adjudication of employee complaints

Disagree

Employee complaints are always dealt with immediately and action is taken in a timely manner. The complaint that the Grand Jury refers to in their fact statement is not correct. A written or verbal complaint was never filed by the employees referred to by the Grand Jury to the General Manager. A complaint was later filed by the employee who was the subject of the potential complaint feeling he was harassed, because the original incident was not reported to the General Manager by the employees, but by their supervisor. When the secondary written complaint was filed, immediate action took place and the matter was resolved. The District has a policy that it follows regarding this matter.

Finding F.1.5. There is a lack of timeliness in the training to employees on use of facility equipment

Disagree

Park staff conducts equipment training in the spring when seasonal employees are hired. The training is for both seasonal staff and a refresher for full time staff. The training is a full day. The training is done by a qualified full time staff member utilizing equipment safety manuals. During the training all employees operate the equipment to get a "hands on" approach to training. Some equipment training has to have a certified by an OSHA approved instructor, which the district has staff to do the training. Training is provided on all new equipment prior to employees being allowed to use the equipment. This training is done once the equipment is in the possession of the District. At times, when no staff is proficient in the operation of equipment, the supplier of the equipment is brought in to provide the training. The district has a very active safety committee which oversees all training and complies with CAL OSHA standards. In 2012 the District hired a safety training firm from Sacramento to conduct the CAL OSHA 10

training to all full time maintenance personnel which included 10 hours of safety training.

Finding F.1.6. Many of the policies, procedures, rules and regulations stated in the TDRPD handbook are outdated.

Partially Agree

The District's policy manual was written in 1995. From 1995 to the present, various policies were added, changed or revised. A thorough review of all the policies had not taken place since 1995. When this was brought to the attention of the General Manager of the district during his interviews with the Grand Jury, the General Manager and the District Clerk contacted various public entities to get copies of their policy manuals. A thorough review was made of other manuals and the District's manual. Changes were made to the District's policy manual and submitted to the Board of Directors for review and approval. The Board reviewed the entire policy manual for two months. In June, 2013 the updated policy manual was approved by the board. All policies of the District are up to date as of June, 2013.

Finding F.1.7. There is no information regarding a plan to repair the piers/docks.

Partially Agree

There is not a formal written plan regarding the public piers of the district. The District has 35 public piers at Donner Lake. Over the years, most of these piers have been replaced or renovated. During the last three years, because of the economic crisis, the District has not had the funds to replace any piers. Safety issues have been fixed as needed. Park district staff conducts an investigation of all piers on a regular basis. Necessary repairs are completed in a timely manner for the safety of the community. If a pier presents a safety hazard, it is closed until repairs can be made. Minor repairs to the piers are handled by district staff. Major repairs are brought to the district board for their consideration. Additionally, the District safety committee assigns a staff member that is not part of the park division to inspect all the piers on a yearly basis. All public piers are currently open and being used by the public.

R.1 The board should update the TDRPD policies, procedures, rules and regulations

The recommendation has been implemented

The District policy manual was updated and approved by the Board of Directors at their regular board meeting on June 27, 2013

R.2 The board should require the GM to report all issues, including harassment, to the Board

The recommendation will not be implemented at the present time

The board believes the current process in place at this time is sufficient. The District General Manager currently handles issues including harassment on a case by case basis. If the issue has merit, it is then presented to the Board of Directors. The board responsibility is to make the policy of the District, not to handle the day to day operations.

- R.3 The board should develop and implement policy to facilitate open and ongoing communication with TDRPD management

The recommendation is currently in place

The board believes that there currently is open communication between the board and management

- R.4 The board should develop and implement policy to include proper training on the use of all facility equipment in a timely manner

This recommendation is currently in place.

- R.5 The board should develop and implement an ongoing evaluation process to insure all facility equipment is in good working order

This recommendation is currently in place.