

El Dorado County Grand Jury



2003/2004

Final Report

June 29, 2004

El Dorado County

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Introduction

The 2003/2004 El Dorado County Grand Jury completed its term on June 30, 2004. In this report readers will see the specific investigations leading to findings and recommendations for the named county agencies, departments and other local government agencies and departments. These investigations, however, do not cover the entire scope of the activities this jury pursued. We investigated 75 citizens' complaints and conducted additional investigations mandated by the Penal Code or instituted by the Grand Jury.

One of the Grand Jury's mandated functions, per Penal Code 919(b), is to visit each public prison within the county. The El Dorado County Grand Jury toured the following facilities:

1. El Dorado County Jail, Placerville
2. El Dorado County Jail, South Lake Tahoe
3. Juvenile Hall, Placerville
4. California Dept. of Corrections Conservation Camp, Growlersberg, Georgetown



GRAND JURY

Telephone (530) 821-7477

Honorable James R. Wagoner
Superior Court Department 9
3321 Cameron Park Drive
Cameron Park, CA 95682

June 15, 2004

Dear Judge Wagoner;

The members of the 2003/2004 El Dorado County Grand Jury were honored to have been selected and to have served the people of El Dorado County this past year. On behalf of the entire membership of the Grand Jury, I am pleased to submit this year's final report.

Twelve months ago, you charged nineteen citizen volunteers with the responsibility of a Civil Grand Jury, as required by the California Constitution. You asked us to examine our county and city governments and to investigate all complaints and concerns brought to our attention. This responsibility, which was placed upon us, was new to some jurors and a continuation of previous service for others, but understood by all to be a serious and somber commitment to serve our county. Our backgrounds were diverse, our knowledge and experiences were varied, but our commitment was universal. This Grand Jury has come together to serve as a unit, and this report represents our year's cumulative efforts.

This year we received and processed 75 complaints, interviewed over 110 witnesses, visited many facilities, and are presenting the results of 12 investigations in our final report. The *Review of County Government* report, in particular, consumed a lot of the Grand Jury's resources and time. This report was compiled from a collection of data, personal interviews, and perspectives of government operations as seen from multiple county viewpoints. The input for this one report was collected from all of the Grand Jury's committees. The Grand Jury's findings are that our County's Government is dysfunctional in many areas, specifically in the areas of communications, personnel relations, operational efficiencies, and long range planning. The leadership of the county needs to work more effectively and more efficiently in the future in order to survive in these financially hard times.

The Grand Jury thanks the elected officials, the Chief Administrative Officer, and other county employees for their cooperation and assistance in our mutual goal of better government.

Thanks to you, Judge Wagoner, for your involvement, and guidance throughout the year. Your understanding and strong backing were very much appreciated by this Grand Jury.

Warren Wyllie
2003-2004 El Dorado County Grand Jury Foreman



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF EL DORADO**

3321 Cameron Park Drive
Cameron Park, California 95682

Department 9 (530) 621-5826
Fax: (530) 672-2413

June 7, 2004

Dear Grand Jury Members:

As Supervising Judge of the 2003/2004 Grand Jury and on behalf of the El Dorado County Superior Court, I want to express my thanks to all of you for your hard work and dedication to the Grand Jury. Your report shows the long hours you have put into making this a successful Grand Jury.

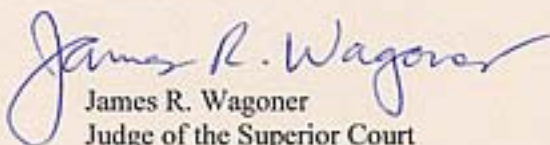
One of the primary functions of the Grand Jury is to help our county government and special districts operate more efficiently. This function is even more important now in our current budget situation. In fulfilling this function, you have included suggestions and recommendations for better government in your report. Equally as important, your report also informs your fellow citizens of areas where our county government and special districts are already well organized and efficient.

The Grand Jury functions only through citizens like you who are willing to devote time and energy to this important work. Your hard work has helped fulfill the Grand Jury's goal of better government for all of the citizens of El Dorado County.

Special thanks go to Mr. Warren Wyllie, the Foreperson of the 2003/2004 Grand Jury. Warren has been a hard-working and able leader in this difficult and time-consuming position. Warren's management and organizational skills have not only assisted in fulfilling the Grand Jury functions for this year, but in improving the Grand Jury process for future years.

Each of you has served El Dorado County and your fellow citizens well, and I congratulate you on your 2003/2004 Grand Jury service.

Very truly yours,


James R. Wagoner
Judge of the Superior Court

**Members of the
2003/2004 El Dorado County Grand Jury**

Warren Wyllie, **Foreman**
Lyle Naffziger
Art Bullentini
Diane Wilkinson
Jytte Langlois
Ken Weitzman
Liz Pazdra
Jeanie Jackson
John Carter
Ginger Ward
Boyd Mahan
Michael Gray
Ted Long
Ira Mirsky
Jim Silva
John R. Plymyer
Robert (Danny) Knappman Jr.
Mark Sandperl
Ralph Fernandez

Notice to Respondents

How to Respond to Findings

For the assistance of all Respondents, Penal Code Section 933.05 is summarized as follows:

The responding person or entity must respond in one of two ways:

1. That you agree with the finding.
2. That you disagree 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 for the disagreement.

How to Respond to Recommendations

Recommendations by the Grand Jury require action. The responding person or entity must report action on all recommendations in one of four ways:

1. The recommendation has been implemented, with a summary of 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. If a person or entity reports in this manner, the law requires a detailed explanation of the analysis or study and timeframe not to exceed six months. In this event, the analysis or study must be submitted to the officer, director or governing body of the agency being investigated.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

Time To Respond, Where And To Whom To Respond

Depending on the type of Respondent, Penal Code Section 933.05 provides for two different response times and to whom you must respond:

1. **Public Agency:** The governing body of any public agency must respond within ninety days. The response must be addressed to the Presiding Judge of the Superior Court.
2. **Elective Officer or Agency Head:** All elected officers or heads of agencies who are required to respond must do so within sixty days to the Presiding Judge of the Superior Court, with an informational copy provided to the Board of Supervisors.

Investigations & Reports

Ambulance Billing

Reason for the report

The 2003/2004 Grand Jury received a complaint concerning the county operated Ambulance Billing Service (ABS).

Scope of the investigation

People interviewed

- Auditor-Controller
- Director, Public Health Department
- Health Insurance Counseling and Advocacy Program (HICAP)
- Medical Billing Supervisor, ABS
- Staff Members of ABS

Documents reviewed

- Auditor-Controller's compliance review report of ABS dated 5/06/04
- Billing records of various time periods
- Board of Supervisors Policy B-4, Collections Recovery Of Public Funds (9/02)
- Complaint
- Internal audit finding from ABS
- Letter from Marshall Hospital to Ambulance Billing Supervisor dated 02/06/03

Background

El Dorado County is the only county in the state of California that directly bills for services performed by county paramedics in the Ambulance Transport Service. HICAP is a volunteer based watchdog organization whose function is to serve the elderly and disabled regarding their rights on Medicare services, among other services. A complaint was received from HICAP regarding improper billing of multiple Medicare patients for services from the El Dorado County Ambulance Transport. The complaint alleged that Medicare patients were being sent bills for payment by ABS, and re-enforced by letters sent by County Counsel, demanding payment for services that were rightfully covered by Medicare Insurance. HICAP alleged that ABS did not pursue disputes in billing between the County and Medicare through resolution with Medicare officials, but rather forwarded these bills to the patient, demanding payment. A number of the disputed invoices were resolved in favor of the patient through the efforts of HICAP, and should not have been forwarded to the patient for payment.

HICAP officials presented early investigation results to the Director of Public Health and requests were made of County officials to look into the matter. Early findings by ABS uncovered deficiencies in employee training and problems with insurance procedures that were to blame for some of the improper billings of County patients. Continued audits by HICAP uncovered additional problems.

An audit of the situation was conducted by the Auditor-Controller, as requested by the Grand Jury in a letter dated 2/18/04.

Facts

1. ABS processes the billing for services provided by The Ambulance Transport Service.
2. Medicare uses the term “Denies” for all services which are disputed or not covered under the Medicare Insurance, and ABS is using the term “Rejected” on bills sent to the patient.
3. Medicare patient bills are sent by ABS to Medicare Insurance for payment.
4. Medicare Insurance sends disputed invoices back to ABS for clarification/correction.
5. Bills not paid in a reasonable time are referred to County Counsel for collection.
6. As quoted in Auditor-Controller compliance review report, “The Department does not have specific written policies and procedures that pertain to the billing of Medicare beneficiaries for Ambulance services.”
7. Training by department staff is accomplished by on-the-job training rather than formal training.
8. Per Auditor-Controller compliance review report, ABS’s unwritten policy is to refer bills to the County Counsel collections after 120 days.

Findings

1. Rejected/Denied Medicare bills were improperly sent to patients. Additional effort was required by county employees to resolve disputes between Medicare Insurance and ABS.
2. ABS was requesting payments from patients through County Counsel even though the Medicare disputes were not resolved.
3. A number of these disputed bills are not being resolved properly and patients are being billed.
4. Different billing terminology between Medicare and ABS caused confusion among patients. These differences caused difficulty when patients called Medicare to resolve the disputes.
5. Lack of written policies and procedures in ABS resulted in improper handling of ambulance transport claims.
6. Lack of training resulted in improper coding on Medicare forms.

Recommendations

1. ABS employees must be directed to resolve disputes with Medicare prior to billing the patients.
2. The County should exclude ABS from sending disputed payment notices to patients per Board Of Supervisors’ policy B-4 in collections.
3. County must resolve differences in terminology used by Medicare Insurance and ABS.
4. The County must immediately direct ABS to develop and implement written policies and procedures for detailed processing of ambulance transport billing.
5. ABS employees must be trained on the coding of Medicare bills and on the County’s written policies and procedures.

The El Dorado County Board of Supervisors, coordinating with the above mentioned agencies, is required by Penal Code 933 and 933.05 to respond to all Findings and Recommendations contained within this report.

See page vi for the proper method to respond to Findings and Recommendations.

Child Protective Services

Reason for the report

The 2003/2004 Grand Jury received a complaint about inconsistent application of policies and procedures in Child Protective Services (CPS) and decided to review the 2001/2002 Health and Social Services Committee report. As a result of this review a general investigation of CPS was made.

Scope of the investigation

People interviewed

- Auditor-Controller
- Chairman of the 2001/2002 Grand Jury Health and Social Services Committee
- CPS Program Managers
- CPS Supervisor
- Current and former CPS employees
- Department of Social Services Accountant
- Director, Department of Human Services
- El Dorado County Judicial Commissioner
- Former acting Director of Human Resources
- Former Assistant Director, Department of Social Services
- Former Director, Department of Social Services

Documents reviewed

- 2001/2002 Grand Jury report
- CPS manual

Sites visited

- CPS, Placerville
- CPS, South Lake Tahoe

Background

The 2001/2002 Grand Jury identified significant deficiencies in CPS. The current Grand Jury reviewed the responses to the report, and then conducted interviews to determine if changes had been made, and if the changes corrected the deficiencies.

The investigation revealed that many of the negative issues in the prior Grand Jury report have been addressed and corrected. The Grand Jury was helped by the cooperation of employees in CPS.

Facts

1. There is no ongoing training between CPS and the local law enforcement agencies.
2. On the job training was the only type of training observed by the Grand Jury in CPS.
3. Supervisors do not complete evaluations or provide feedback on probationary personnel on a regular basis.
4. Communication among management, supervisors, and line employees in CPS needs improvement.
5. Confidential material is often left exposed on desks and subject to unauthorized access.

Findings

1. Local law enforcement and CPS do not understand each other's needs and responsibilities.
2. Budgetary cutbacks have reduced formal training in CPS.
3. The current evaluation and feedback system for probationary employees in CPS limits understanding of their progress in work performance and affects the services they are expected to provide.
4. Leadership fails to maintain effective communication between management and line employees leading to confusion and angst among employees.
5. Security rules for confidential information are ignored.
6. Inconsistent application of written CPS guidelines diminishes care and support of children and results in frustration of individual CPS workers.

Recommendations

1. Establish a formal training program between CPS and local law enforcement.
2. Additional formal training is required for CPS employees to understand the department's needs and objectives.
3. Perform evaluations more than once a year for probationary employees. Feedback must be provided on a continuous basis.
4. Refine the program guidelines making them clear and concise. Leadership must monitor and evaluate application of the revised guidelines.
5. CPS must comply with confidentiality rules and laws.

The El Dorado County Board of Supervisors, coordinating with the above mentioned agencies, is required by Penal Code 933 and 933.05 to respond to all Findings and Recommendations contained within this report.

See page vi for the proper method to respond to Findings and Recommendations.

County Public Buildings

Reason for the report

The 2003/2004 El Dorado County Grand Jury chose to review, inspect and tour a selection of County offices and office buildings per California Penal Code (PC) 925.

Scope of the investigation

The 2003/2004 Grand Jury toured, inspected and interviewed staff at the following County offices and office buildings.

Sites visited

- Agriculture Building, Placerville
- Animal Control, South Lake Tahoe
- Assessors Office, Placerville
- Assessors Office, South Lake Tahoe
- Cameron Park Library
- El Dorado Hills Library
- Records Office, Lake Tahoe
- Sheriff's Parking Lot, Placerville
- Veterans Services Office, Placerville

Background

PC 925 states in part "The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts..."

The Grand Jury as part of its general review chose to review County offices and office buildings, for maintenance, health and safety items, and overall appearances. The Grand Jury found a few areas that needed improvement; overall the buildings and offices were maintained satisfactorily. The areas that needed improvement are listed below.

The Grand Jury would like to thank all the county employees that took the time to show us around and answer our many questions.

AGRICULTURE BUILDING

Findings

1. The heat/air conditioning ceiling vents are dirty.
2. The modular building adjacent to the Agriculture Building has a doormat with ragged edges, possibly causing someone to trip and fall.
3. The carpet between the public area and office has an open seam.

Recommendations

1. The heat/air conditioning ceiling vents need to be cleaned.
2. Replace the existing doormat.
3. A carpet strip needs to be installed in the doorway over the open seam.

ANIMAL CONTROL, SOUTH LAKE TAHOE

Findings

1. There is a steep slope to the rear of the building. When there is precipitation, run off goes directly to the building causing flooding or dangerous ice.
2. The parking lot and driveway are inadequate, they are on a slope causing winter safety hazards due to ice and snow.
3. There is no handicap access to or inside the building.
4. The public restroom is located at the rear of the main staff office. This causes cross traffic and disrupts productivity.
5. There is an inadequate exercise area. Only one animal may exercise at a time.
6. The cement runs stayed wet or damp and did not dry out very well. This is a safety hazard for the public, staff and animals.
7. There are no facilities for larger animals, such as horses, goats, etc.

Recommendations

1. Erect a retaining wall with a drainage system at the rear of the building to curtail the damage from snow and ice runoff.
2. The parking lot and driveway directly in front of the Animal Control Building should be graded or modified to eliminate excess snow, ice and water accumulation. This would also provide additional parking and easier access.
3. Access to and from the parking lot and the building should be handicap accessible.
4. Access to the public restroom should be redirected from the main staff office.
5. Provide additional space for animal exercise.
6. Provide additional ventilation for the animal runs to dry more quickly.
7. Additional facilities are needed for larger animals.

ASSESSORS OFFICE, PLACERVILLE

Findings

1. The water fountain located at the front door of the Assessors Office is out of order.
2. There are five to ten computer monitors stored on the top of a file cabinet. According to staff this equipment has been waiting to be moved for months.

Recommendations

1. The water fountain needs to be fixed.
2. The computer monitors need to be removed.

ASSESSORS OFFICE, SOUTH LAKE TAHOE

Findings

1. Single pane windows are currently installed and insufficient. Staff stated ice has formed on the inside of the windows in winter, and the offices are very cold.
2. A fire extinguisher in the office had an expired inspection tag.
3. A sizeable worn spot in the lobby carpet needs to be repaired.

Recommendations

1. Double pane windows should replace the single pane windows.
2. The fire extinguisher needs to be inspected.
3. The lobby carpet needs be repaired.

CAMERON PARK LIBRARY

Findings

1. The ceilings are very high causing acoustic problems. This problem was raised and verified by library staff. The noise level is distracting and is not conducive to library study.
2. The staff restroom has a leaky toilet and rust is visible on the supply line of the toilet.
3. Some acoustical tiles in the storage room ceiling were water stained.

Recommendations

1. The acoustical problem needs to be reviewed, as the Quiet Room affords only a small number of library users the opportunity for quiet study.
2. The leak in the staff restroom toilet and rust on the supply line need to be repaired.

3. The acoustical tiles that are water stained need to be removed, so the roof can be checked for possible leaks.

EL DORADO HILLS LIBRARY

Findings

1. The carpet located in the teacher's check out area is in poor condition with some rippling and loose seams. The carpet poses a safety hazard to users and is a potential liability.
2. Some acoustical tiles in the ceiling were water stained. This may indicate a possible roof leak.

Recommendations

1. The carpet in the teacher's check out area needs to be stretched or replaced.
2. The acoustical tiles that are water stained need to be removed, so the roof can be checked for possible leaks.

RECORDER'S OFFICE, LAKE TAHOE

Findings

1. The fire extinguisher is located in an adjacent janitor's office, rather than in the Recorder's office.
2. There is no fire sprinkler system in place.

Recommendations

1. The fire extinguisher needs to be relocated to the Records Office, so that it may be accessible to staff.

SHERIFF'S PARKING LOT, PLACERVILLE (11/04/03)

Findings

1. The parking lot surface had several pot holes and uneven pavement.
2. The surface had cracks in the asphalt. There are low spots which accumulate rain, snow and/or ice.
3. The concrete steps from the Sheriff's Department Building to Building "A" showed cracks and missing material.
4. Steps are not of uniform size, some having a higher than normal rise and longer than normal run. This non-conventional size step could cause misjudgment in descending or ascending.

5. Steps are wider at the top step and narrower at the bottom step. This could cause misjudgment while descending or climbing.
6. The bottom step is angled unlike the top three steps. This could cause misjudgment while descending.
7. There is a wall on one side of the stairs that further narrows the lower steps.
8. There is no handrail.
9. Although three large lights shine on the stairs, the lights are blocked by tree branches or trunks.
10. No “direct” lighting was on the stairs.
11. The entire parking lot is poorly lit.
12. The security gate allowing access to the parking lot is non-operable.

Recommendations

1. Fill the pot holes in the parking lot surface.
2. Seal the asphalt cracks.
3. Level the pavement to eliminate low spots.
4. Standardize the stair size.
5. Provide handrail.
6. Install individual step lights.
7. Prune tree branches away from the existing overhead lighting.
8. Install additional overhead lighting in the parking lot.
9. The security gate needs to be repaired and maintained.

Follow up

The Grand Jury made a follow up visit on 03/09/04, the following corrections had been made:

1. A sidewalk with a ramp has been installed, replacing the stairs.
2. A partial handrail has been installed. Full handrail still needs to be constructed.
3. Individual lights have been installed along the ramp.
4. Additional overhead lighting has been installed over the sidewalk area.

VETERANS SERVICES OFFICE

Findings

1. There is no counter to separate the public entering the office, from those desiring to speak in confidence.

Recommendations

1. A counter should be installed. This would allow conversations and discussions to be conducted in a private setting

The El Dorado County Board of Supervisors, coordinating with the above mentioned agencies, is required by Penal Code 933 and 933.05 to respond to all Findings and Recommendations contained within this report.

See page vi for the proper method for responding to Findings and Recommendations.

Information Technologies

Reason for the report

The 2003/2004 Grand Jury chose to conduct a review of the County's Information Technologies Department (IT).

Scope of the investigation

People interviewed

- Director of IT
- IT staff members
- County Administrative Officer (CAO)
- Members of the County Board of Supervisors (BOS)
- Various Department Directors

Documents reviewed

- 2002/2003 Grand Jury report
- Information Services Strategic Plan
- BOS Policy A-10, IT Steering Committee

Background

The 2002/2003 Grand Jury findings and recommendations on Information Services General Review, remain applicable this year.

Facts

1. Each county department is funded annually for technology (computers, software, systems, etc.).
2. Each department considers their own needs paramount when spending their allocated monies.
3. Departments spending their allocation make no effort to integrate with the other departments on technology.
4. No county-wide coordination to prioritize technology projects is made at any level of this county's government.
5. The County has an IT Steering Committee, whose written goal is to integrate county technology needs.
6. The IT Steering Committee is attended by lower level staff members who do not have authority to make decisions concerning information technology.

Findings

1. The BOS has no long-term vision pertaining to the future of information technology.

2. IT does not lead the county in technology advancements, nor does IT coordinate the needs of each department into a county-wide, prioritized, technology program.
3. The IT Steering Committee meets irregularly and provides no direction to the county's decision makers (ie: the BOS and CAO).
4. The lack of coordination between departments causes duplication of IT purchases.
5. Individual departments make expenditures without coordinating the main frame interface needs of their new systems resulting in major impacts to the county's existing hardware, software, and IT personnel.
6. The County does not aggressively pursue the use of technology as an advancement in methodology of doing county business for the purpose of economy, speed, or efficiency.

Recommendations

1. The County must work toward standardizing its software, hardware, and systems to insure all county employees can work together on the same systems efficiently.
2. The BOS, CAO and the IT Director must take the lead on the IT Steering Committee with participation by other key department heads.
3. The BOS, CAO and Director of IT must create a multi-year strategic technology funding plan.
4. The IT Steering Committee must be assigned the responsibility for integrating, prioritizing, and approving county technology projects, purchases, and funding.
5. The IT Steering Committee must revise and update controls on purchasing of technologies, so that redundant systems are not purchased or adversely affect IT infrastructure.
6. The County must aggressively pursue technological advancements with the objectives of reduction in cost and improvement in efficiency.

The El Dorado County Board of Supervisors, coordinating with the above mentioned agencies, is required by Penal Code 933 and 933.05 to respond to all Findings and Recommendations contained within this report.

See page vi for the proper method for responding to Findings and Recommendations.

Materials Recovery Facility

Reason For The Report

The 2003/2004 Grand Jury received a citizen's complaint concerning the operation of the El Dorado County Materials Recovery Facility (MRF) in Diamond Springs.

Scope of the investigation

People interviewed

- Complainant
- Director, County Environmental Management Department and staff members
- MRF staff

Documents reviewed

- County Environmental Management Department documents
- El Dorado County Agreement with Waste Management, Inc.
- New proposed County waste disposal Agreement
- Notice of Default from the County to MRF franchise
- Photographs and video of facility activities
- The Integrated Waste Management Act of 1989 (AB939)

Sites visited

- MRF, several occasions
- Board of Supervisors meetings

Background

In December 1996, the Union Mine Disposal site was closed to the public. Western El Dorado Recovery Systems, Inc. opened a materials recovery facility in Diamond Springs. The County contracted with Western El Dorado Recovery Systems, Inc., to help facilitate compliance with California law AB939 which mandates a 25% diversion from landfills by 1995 and 50% by 2000, or face a \$10,000 per day fine.

In the late 1990's Waste Management, Inc. assumed responsibility for both El Dorado Disposal, Inc., and Western El Dorado Recovery System, Inc. The MRF in Diamond Springs is considered a "dirty materials recovery facility" because its operations separates the non-recyclable material from the recyclables. Recycled materials are sent to a "clean materials recovery facility" in California where paper, cardboard, metal, glass and plastic are further separated. In early 1997 the County began the transition into a permanent "exporting county" by taking all waste that could not be recycled to landfills outside of the county.

The Grand Jury toured the MRF on several occasions observing the following: waste drop area, recycling area, separating area, green waste area, carcass bin, thrift shop, and camera monitoring room.

Facts

1. Waste Management, Inc., is currently operating under the original El Dorado Disposal Company Agreement.
2. The State mandated recycling requirements of AB939, have not been met by the county since 1995.
3. The County received a “good faith” extension (July 2000 to July 2004) from California’s 50% recycling requirement of AB939. Another extension request is being considered.
4. On 7/17/02, the County issued a Notice of Default to Waste Management, Inc., for failure to operate the transfer station/recycling facility in accordance with the contract.
5. The County will incur a \$10,000 a day fine, if they do not meet the 50% recycling requirements.
6. The County is no longer making regular on-site inspections of MRF to assure compliance with AB939.
7. The state requires that non-recycled materials be hauled away within 24 hours.
8. There is a manual sorting of waste conducted at the MRF to help meet the recycling requirement.
9. A camera system has been installed to monitor operational activities at MRF.
10. There is a non-refrigerated bin provided for animal carcasses.
11. There is only one register at the MRF for non-commercial refuse drop off payment.

Findings

1. By not enforcing the State mandated recycling requirements the County faces a \$10,000 a day fine.
2. Instead of enforcing the State mandated recycling requirements, of 50%, the County continues requesting extensions. Currently the recycling is approximately half of the mandated requirement.
3. The County has proposed a new Agreement with Waste Management, Inc.
4. Non-recycled materials are not hauled away within 24 hours as required by state law.
5. The County is no longer making on-site inspections of the MRF operations on a regular basis.
6. The camera system, monitored at the Environmental Management Department, does not provide adequate monitoring of the recycling activities.
7. The animal carcass bin is not always properly closed.
8. The MRF does not have the State required animal carcass freezer.
9. County residents can incur long wait times to drop off their refuse.

Recommendations

1. The County must enforce the state-recycling requirement of 50%.
2. The County must expedite the new Agreement with Waste Management, Inc., or contract with a company that will meet state AB939 mandates.
3. The County must enforce California State Regulations requiring all non-recycled material be removed within 24 hours, including weekends.

4. The County must not rely exclusively on camera monitoring of the MRF activities, and must re-instate on-site inspections to ensure AB939 compliance.
5. The County must enforce compliance with state law regarding a freezer for animal carcasses.
6. The County must direct Waste Management, Inc., to improve non-commercial customer service at the MRF.

The El Dorado County Board of Supervisors, coordinating with the above mentioned agencies, is required by Penal Code 933 and 933.05 to respond to all Findings and Recommendations contained within this report.

See page vi for the proper method for responding to Findings and Recommendations.

Ranch Marketing Ordinance

Reason for the report

The 2003/2004 Grand Jury received a citizens' complaint concerning the El Dorado County Ranch Marketing Ordinance 17.14.190.

Scope of the investigation

People interviewed

- The complainant
- Current and former Agricultural Commissioner
- Assistant Agricultural Commissioner
- Planning Department staff
- Agriculture Department staff

Documents reviewed

- The citizen's complaint
- The El Dorado County Ranch Marketing Ordinance
- Correspondence to and from the County and complainant
- Planning Department documents
- El Dorado County Crop Report 2002

Background

The following is the stated purpose of the Ranch Marketing Ordinance:

“The purpose of this section is to provide for the development of ranch marketing activities to encourage the economic development of the agricultural and tourism industries while regulating such uses to protect the public health, safety and welfare and the enjoyment of property by adjacent land owners...”

The complaint alleges, confusion within the County Government on the interpretation and enforcement of the Ranch Marketing Ordinance. There is no uniform interpretation of the Ranch Marketing Ordinance. This confusion is compounded by the transfer of the Ranch Marketing Ordinance enforcement between the Planning and Agriculture Departments.

Facts

1. The Ranch Marketing Ordinance was originally written in 1988 and last revised in 2003.
2. The Agriculture Department took over sole code enforcement of the Ranch Marketing Ordinance in 2003. Previously code enforcement was done by both the Planning and Agriculture Departments.
3. The Ranch Marketing Ordinance does not define specific crops but does have acreage requirements.

4. The Ordinance does not state a minimum crop density.
5. The Agriculture Department, in September 2003, gave approval of compliance with the Ranch Marketing Ordinance to the complainant on acceptable crops and acreage requirements.
6. The Agriculture Commissioner, in October 2003, rescinded the Department's approval based on his opinion that Christmas trees were not a crop as it pertains to the Ranch Marketing Ordinance.

Findings

1. The Ranch Marketing Ordinance is open to interpretation and is confusing to those attempting to comply with its requirements.
2. The Ranch Marketing Ordinance is open to interpretation and is confusing to those who are attempting to explain and enforce its requirements.
3. There is inconsistency in the methodology of measuring acreage (manual versus global positioning satellite also known as GPS), resulting in possible disqualification.
4. The County generally does not enforce the Ranch Marketing Ordinance unless a complaint is received, resulting in a lack of standardized enforcement.
5. Confusion between Agriculture and Planning Departments delays an applicant's qualification or rejection for Ranch Marketing.

Recommendations

1. The Agricultural Commissioner and the Director of the Planning Department need to resolve the differences of interpreting the Ranch Marketing Ordinance until it is rewritten.
2. The Agricultural Department should lead the expeditious rewrite of the Ranch Marketing Ordinance to make it complete, clear and concise.
3. The Agricultural Department needs to become proactive rather than reactive regarding enforcement of the Ranch Marketing Ordinance.
4. A specific timeframe should be set by the County to approve or disapprove Ranch Marketing applications.

The El Dorado County Board of Supervisors, coordinating with the above mentioned agencies, is required by Penal Code 933 and 933.05 to respond to all Findings and Recommendations contained within this report.

See page vi for the proper method for responding to Findings and Recommendations.

Review Of County Government

Reason for the Report

The 2003/2004 Grand Jury received numerous complaints regarding mismanagement of county employees that evolved into an investigation concerning the competence, practices and procedures of all levels of county government.

Scope of the Investigation

People interviewed

- The Board of Supervisors
- Chief Administrative Officer
- Department Directors
- Current and former county employees
- Union local #1 representative
- An outside contractor and supplier
- Information Services representative

Documents reviewed

- Prior Grand Jury reports
- Numerous citizen and employee complaints
- County policy and procedure manuals
- The County/Union Memorandum of Understanding (MOU)
- Purchasing procedures and contracts
- Policies and procedures of other counties

Background

The 1999-2000 Grand Jury concluded in their investigation of County Government that: “Grand Jury investigation of various departments of the El Dorado government indicates department heads (directors) failed to properly direct operations or properly oversee operations within their departments.” Little, if any, progress has been made since that report.

There were repeated allegations to the Grand Jury of incompetence and lack of leadership. It is not clear if the problems were a result of: policy-setting, hiring procedures, misdirected promotions, improper delegation of responsibility, lack of training, or a combination of all of the above. In any case, the issue demands immediate correction.

Facts

1. There is excessive turnover in department directors.
2. There are numerous incidents of general and specific employee abuses, such as: arriving late and leaving early, long lunch hours, incidents of favoritism, wasted assets and wasted time.

3. Management has failed to document policy/procedure violations.
4. Management has failed to discipline documented violations.
5. Management has used flex hours as a reward and punishment tool.
6. There has been improper personal use of county computers, telephones, and vehicles.
7. There is general unrest and uncertainty among county employees and management due to numerous abuses of authority, intimidation, lack of procedures, and duplication of effort through lack of technology.
8. There is a lack of communication and cooperation between managers of various departments and the Human Resources Department.
9. Human Resources has lost its ability to function effectively.
10. Standards of employee performance and behavior are “loose”, nonexistent, or are not enforced.
11. The number of abuses overwhelmingly indicates a lack of leadership and ability to manage.
12. Business operations of El Dorado County are very poorly run, and all problems and lack of management in the county are a direct result of poor leadership from the top down.
13. The county has not taken full advantage of available technology to integrate, streamline and modernize its operation. (see IT report)
14. The county negotiated away employee performance evaluations during county/union contract negotiations.
15. There is lack of training.
16. The county compensation package is inadequate.

Findings

1. There are county employees, at all levels, who do not acknowledge that they are part of the county’s dysfunction.
2. County departments generally operate as separate entities with little regard or communications with other departments.
3. The office of the Chief Administrative Officer has not always had strong support from all department directors and the Board of Supervisors.
4. Department directors are not meeting regularly to discuss and resolve interdepartmental and county-wide issues.
5. The Human Resources Department does not have a strong labor relations commitment.
6. Without regular meaningful performance evaluations, the county lacks the ability to evaluate employees for promotion and discipline. Evaluations would also provide feed back to the employees.
7. Training is often neglected due to budget limitations.
8. The Human Resources Department leadership, along with other county department leaders, are not enforcing policies and procedures. This lack of leadership fosters violations and misconduct by county employees.
9. The County does not attract sufficient qualified applicants due to lack of positive working environment and competitive compensation policies.
10. Electronic technology is not being utilized to its fullest.
11. Workplace values, such as pride, respect, responsibility, and professionalism are not always held in high regard.

Recommendations

1. For anything to change, there must first be a county-wide recognition and acknowledgement of the county dysfunction. Employees at all levels must critique themselves for improvement.
2. The Board of Supervisors and department directors must provide strong support for the Chief Administrative Officer in consolidating and streamlining county government.
3. The Chief Administrative Officer and department directors must meet monthly to set goals, make plans, review progress, and establish priorities.
4. The Board of Supervisors must direct the Chief Administrative Officer to establish a strong labor relations program.
5. Meaningful performance evaluations must be done regularly. Each department director must establish standards and goals that actually measure the effectiveness of their department with time frames to meet these requirements.
6. Provide training programs for newly hired, recently promoted, and present employees. Training must include department basics, leadership, and communications.
7. County-wide codes of behavior, conduct and dress must be developed by Human Resources with cooperation of the union officials. Empower the Human Resources Department to enforce these rules and provide these rules to employees.
8. Explore and develop a clear policy for employee promotion.
9. Review and upgrade compensation policies to allow the county to be competitive.
10. Major software companies should be consulted to review county operations and make recommendations for improvement. See IT report for additional recommendations.
11. The Board of Supervisors, department directors and employees, must support important workplace values, such as pride, respect, responsibility, and professionalism.

Commendations

El Dorado County currently supports numerous volunteer programs. The Grand Jury recommends that the BOS empanel a blue ribbon committee to investigate and determine additional areas to expand the volunteer programs.

The El Dorado County Board of Supervisors, coordinating with the above mentioned agencies, is required by Penal Code 933 and 933.05 to respond to all Findings and Recommendations contained within this report.

See page vi for the proper method for responding to Findings and Recommendations.

Trust Funds

Reason for the report

The 2003/2004 Grand Jury chose to review county trust fund accounts.

Scope of the investigation

People interviewed

- Auditor-Controller
- Assistant Auditor-Controller
- Chief Administrative Officer (CAO)
- Members of the Board of Supervisors (BOS)

Documents reviewed

- BOS Agenda Transmittal Sheet dated 03/02/04
- Letter dated 2/11/04 from the Auditor-Controller to the BOS with attachment
- Trust Fund Accounts Reconciliation Sheets for fiscal year ending 6/30/03

Background

The Grand Jury attended the BOS meeting on 3/02/04 and received a copy of the Auditor-Controller's letter dated 2/11/04, which listed all trust fund accounts and balances.

A trust fund is a reserve account created to set aside money for a specific purpose prior to its expenditure and reported separately from general fund accounts. The Grand Jury was concerned about the number of open trust funds, the frequency of validation and reconciliation of the trust fund accounts, and the authorization procedures for establishing trust fund accounts by departments.

Facts

1. Department heads are not required to reconcile trust fund accounts. As of 6/30/03, five departments had 15 unreconcilable trust fund accounts totaling \$156,733.
2. As of 6/30/03, there existed 387 open trust fund accounts totaling \$111,153,594.
3. There are 47 open trust fund accounts with a zero balance.
4. California and Federal grant trust accounts generally have expenditure closing dates. Not all County trust fund accounts have closing dates.
5. The County does not have written procedures for authorizing, reconciling and closing trust fund accounts.
6. The Auditor-Controller tracks receipts, expenditures, and balances for each individual trust fund account.

Findings

1. Department heads are relied upon, but not required, to reconcile their department trust fund accounts.
2. Not all department trust fund accounts set up from county budget funds have a scheduled completion or expiration date. Encumbering funds for a long time can cause the loss of its intent and purpose of the trust fund.
3. As of 6/30/03, forty-seven trust fund accounts have a zero balance.
4. Lack of written procedures by the County for authorizing, reconciling, and closing trust fund accounts creates inconsistency and confusion.

Recommendations

1. Maintenance and reconciliation of each trust fund account must be reviewed by each department and justified to the CAO on an annual basis.
2. County must establish definitive schedules for the expenditure of funds in trust accounts.
3. County must review the need for trust fund accounts that have zero balance and close those whose need cannot be justified as to remaining open.
4. Unjustified or unused balances must be transferred (escheated) to the general fund.
5. County must write procedures to include requirements for the, authorization, reconciliation, and closure of trust fund accounts.

The El Dorado County Board of Supervisors, coordinating with the above mentioned agencies, is required by Penal Code 933 and 933.05 to respond to all Findings and Recommendations contained within this report.

See page vi for the proper method for responding to Findings and Recommendations.

Videotaping at County Jails

Reason for the report

The 2003/2004 Grand Jury received a citizen's complaint concerning the lack of videotaping of prisoners at the County Jail, Placerville.

Scope of the investigation

People interviewed

- Sheriff, County of El Dorado
- Commander, County Jail, Placerville
- Commander, County Jail, South Lake Tahoe

Documents reviewed

- Citizen's complaint
- Sheriff's Policy and Procedure manual

Sites visited

- County Jail, Placerville.
- County Jail, South Lake Tahoe.

Background

The complainant alleges that the county failed to videotape the booking process at the County Jail, Placerville per standard procedure. Videotaping of the booking area is done 24 hours a day 7 days a week. This taping is for the protection of both the inmates being booked and the booking personnel.

Facts

1. A videotape machine in the booking area of the county jail in Placerville malfunctioned for an unknown period of time.
2. Sheriff's Department personnel were unaware of the malfunctioning videotape machine.

Findings

1. Policy and procedures in place at the time at the county jails did not require regular review of videotape for possible machine malfunction.

Recommendation

Policy and procedures be revised to require the videotapes and the taping machines be inspected at regular intervals to insure proper functioning.

The El Dorado County Sheriff, is required by Penal Code 933 and 933.05 to respond to all Findings and Recommendations contained within this report.

See page vi for the proper method for responding to Findings and Recommendations.

South Lake Tahoe

STPUD/MTBE Lawsuit Fees

Reason for the report

The 2003/2004 Grand Jury received a South Lake Tahoe citizen complaint concerning the alleged excessive legal fees in the Methyl Tertiary Butyl Ether (MTBE) case filed by the South Tahoe Public Utility District (STPUD).

Scope of the investigation

People Interviewed

- STPUD representatives

Documents reviewed

- Citizens complaint
- STPUD board meeting minutes
- Law firm billing statements

Background

STPUD sued the gasoline providers (oil companies) for providing gasoline that contained a hazardous chemical. The gasoline containing the chemical leaked from numerous gas station underground storage tanks into the ground water supply. The Grand Jury did not look into the merits of the lawsuit nor the impact on the ground water supply.

Facts

1. Gasoline containing the hazardous chemical leaked from numerous underground gas station storage tanks and contaminated the South Lake Tahoe ground water supply.
2. Cleanup costs of \$42 million were determined by hazardous waste experts and approved by the court.
3. Legal fees of \$27 million were approved by the court.

Findings

1. STPUD has not clearly communicated the proper allocation and distribution of the settlement.
2. The oil companies paid for \$42 million to cover cost of the cleanup at no cost to the STPUD rate payers.
3. Legal fees paid by the oil companies were not included in the clean-up cost.
4. Legal fees and clean-up costs were approved by the court.

Recommendations

1. Future STPUD communications on this matter should be clear about the proper allocation and distribution of the court awarded funds for cleanup and attorney fees.

The South Tahoe Public Utility District Board of Directors, is required by Penal Code 933 and 933.05 to respond to all Findings and Recommendations contained within this report.

See page vi for the proper method for responding to Findings and Recommendations.

Tahoe Basin Cable TV Service

Reason for the report

The 2003/2004 Grand Jury received a citizen's complaint that local cable TV was not providing California station TV news to the Meyers area of the Tahoe Basin.

Scope of the investigation

People interviewed

- Local cable TV representative
- Local government officials

Documents reviewed

- Complaint
- Local cable TV contract with El Dorado County
- Applicable ordinances and statutes

Background

Complainant stated that customers of the local cable TV in the Meyers area of the Tahoe Basin were not receiving California station TV news. The only news sources were from the Reno, Nevada stations.

Facts

1. The El Dorado County contract did not specify that local California station TV news service be provided to the Meyers area of the Tahoe Basin.
2. California station news was not being broadcast on the local cable TV in the Meyers area of the Tahoe Basin.
3. The local cable TV franchise contract was purchased by the current cable TV provider.
4. The Grand Jury investigation prompted the current cable company to look into the matter.

Findings

1. The Meyers area of the Tahoe Basin was not receiving California station local cable TV news.
2. California station TV news to the Meyers area of the Tahoe Basin was interrupted by the business failure of a microwave relay company.
3. Local California station TV news broadcasting resumed after the current cable company installed a new cable which replaced the microwave relay.

Recommendation

1. The County contract with cable TV signal providers should contain requirements for uniform basic services to all the communities it serves.

The El Dorado County Board of Supervisors, is required by Penal Code 933 and 933.05 to respond to all Findings and Recommendations contained within this report.

See page vi for the proper method for responding to Findings and Recommendations.

South Tahoe Redevelopment Agency

Reason for the report

The 2003/2004 Grand Jury chose to investigate the of South Tahoe Redevelopment Agency (STRDA), specifically the announced \$7,000,000 deficit in funding of the Park Avenue Project.

Scope of investigation

People interviewed

- See attached investigation report, page 1, "Investigation Methodology".

Documents reviewed

- See attached investigation report, page 13, "Materials Reviewed".

Background

In mid-2003, the Grand Jury received information from a concerned citizen that millions of dollars from the City of South Lake Tahoe general fund had been used to cover deficits incurred by the South Tahoe Redevelopment Agency. It was alleged that this money had been used without the specific approval of the City Council, and that no repayment plan had been established as required by an agreement between the two entities.

Reports in the local press during the same time period also indicated that general fund money had been used to cover Agency deficits but city staff were not certain of the exact amount of money involved.

The Grand Jury contracted a professional investigator to accomplish the investigation, due to its complex nature and scope. The professional investigator's report summary is attached. A complete report, with addendum, is available at all El Dorado County Libraries.

Facts

The attached investigative report enumerates several facts, and the Grand Jury concurs with them as stated in the report.

Findings

1. There was poor oversight of the activities and inadequate financial management of the Park Avenue project. This was due to the same people serving on the city council and on the STRDA. Also there was high turnover of these elected official and their supporting city staff.

2. The financial reporting system in use in the City of South Lake Tahoe during the years in question (1999-2002) was difficult to understand. There was a lack of notification and/or control in certain situations when overspending occurred. The City Council did not receive cogent, on-going spending updates as each year progressed.
3. The financial documents that the City Council received were difficult to understand and were not presented on a regular basis. These non-user friendly financial documents contributed to a lack of financial control over the project by the city council.
4. The same auditor was used by the city for several years.
5. The STRDA audit report dated 9/30/01 clearly identified a large deficit in the their fund. Nevertheless, no action was taken by staff or elected officials to memorialize the deficit in a loan agreement as required by the Cooperation Agreement.

Recommendations

1. Future STRDA Boards must be independent of the City Council, with no more than one member of the City Council on the board. However the STRDA board must be accountable and report to the City Council
2. The STRDA must be vigilant in monitoring actual expenditures against budgeted amounts as the fiscal year progresses. STRDA must take prompt and decisive action when negative variances are identified. STRDA shall continue to provide the monthly budget update information to the City Council.
3. The City of South Lake Tahoe must strictly adhere to the financial controls implemented by the City Manager and City Council as outlined in the 11/16/03 staff report.
4. The City of South Lake Tahoe and STRDA must change independent outside financial auditors on a regular basis to help ensure unbiased reviews of the city's and STRDA's financial conditions.
5. When STRDA identifies deficit conditions, the circumstances need to be promptly documented in a manner consistent with the Cooperation Agreement between the City of South Lake Tahoe and STRDA.

The South Lake Tahoe City Council/STRDA Board of Directors, is required by Penal Code 933 and 933.05 to respond to all Findings and Recommendations contained within this report.

Note: Respondent does not need to respond to the attached report.

See page vi for the proper method for responding to Findings and Recommendations.

Investigative Report

Financial Transactions Between The City of the South Lake Tahoe And the South Tahoe Redevelopment Agency

Background

In mid-2003, the Grand Jury received information from a concerned citizen that millions of dollars from the City of South Lake Tahoe general fund had been used to cover deficits incurred by the South Tahoe Redevelopment Agency. It was alleged that this money had been used without the specific approval of the City Council and that no repayment plan had been established as required by an agreement between the two entities.

Reports in the local press during the same time period also indicated that general fund money had been used to cover Agency deficits but city staff were not certain of the exact amount of money involved.

Scope of the Investigation

The Grand Jury requested that the Investigator look into the following issues:

- Money from the City's general fund was being used to fund redevelopment projects without proper documentation or approval;
- No conditions for repayment of such funds had been established as required by a written agreement between the City and the Redevelopment Agency; and,
- The Redevelopment Agency board was not exercising proper oversight over expenditures.

Investigative Methodology

Key people from the City of South Lake Tahoe government structure were interviewed either by the Investigator, Grand Jury members or both: A representative from the CPA firm that conducted the annual audits of the City and Redevelopment Agency's financial status was also interviewed.

The interviewees included:

Bruce Budman, Director of Finance for the City of South Lake Tahoe
Hal Cole, South Lake Tahoe City Council member
Bill Crawford, former South Lake Tahoe City Council member
Tom Davis, South Lake Tahoe City Council member and current Mayor
Don Fraser, financial consultant to the South Tahoe Redevelopment Agency
David Jinkens, City Manager, City of South Lake Tahoe
Brett Miller, partner in the CPA firm of Moss, Levy, and Hartzheim
Gene Palazzo, Redevelopment Manager, South Tahoe Redevelopment Agency

The Investigator also reviewed numerous reports and other written materials and listened to audio recordings of selected presentations at three City Council/Redevelopment Board meetings. Copies of the most significant written materials have been included in the Addenda section of this report.

A more complete listing of the written materials reviewed is contained in the "Written Materials Reviewed" section on page 13 of this report.

City and Redevelopment Agency Organizational Structure

The City of South Lake Tahoe is governed by 5 elected council members who serve four-year terms. Each year, the Council selects one member to serve as Mayor.

The City Council also serves as the Board of Directors for the Redevelopment Agency. The member serving as Mayor serves as Chairperson of the Agency board.

Meetings of the City Council and the Redevelopment Agency Board of Directors are generally held twice a month and are open to the public. Minutes are taken and the meetings are tape-recorded. Copies of both are available through the City Clerk's office.

Oversight of the day-to-day operations of the City is the responsibility of the City Manager who is appointed by the City Council. The City Manager also serves as the Executive Director of the Redevelopment Agency.

The Redevelopment Agency employs staff to carry out its day-to-day functions. The number and titles of these staff members have changed slightly over the years based on the status of the project at the time. The salaries and other costs for these employees are supposed to come from redevelopment funds. However, the deficit condition of redevelopment finances has resulted in employee costs being paid from the general fund. The agency also employs a number of consultants who have expertise in various fields.

Employees from other city departments also perform tasks for the Redevelopment Agency as part of their jobs. The Redevelopment Agency is supposed to reimburse the City for the time and other expenses incurred by these city employees while they are doing redevelopment work. Reimbursement costs have fluctuated each year based on the current status of redevelopment projects. Because of the current deficit situation, the City's general fund has not been reimbursed for all employee costs.

The City's fiscal year begins on October 1 and ends on September 30.

Authority for City to Fund Redevelopment Agency Expenditures

On December 15, 1981, the City of South Lake Tahoe (hereafter known as "City") and the South Tahoe Redevelopment Agency (hereafter known as "Agency") signed a "Cooperation Agreement." This agreement describes duties and obligations each entity might incur toward the other.

Pertinent sections of the agreement have been paraphrased below. The entire document can be found at Addendum 1 of this report.

1. City agrees to provide for the Agency such staff assistance, supplies, technical services and other services and facilities of the City as the Agency may require in carrying out its functions.
2. The City may, but is not required to, advance necessary funds to the Agency or to expend funds on behalf of the Agency for the preparation and implementation of a redevelopment plan.
3. The City will keep records of activities and services undertaken pursuant to this Agreement, and the costs thereof, in order that an accurate record of the Agency's liability to the City can be ascertained. The City shall periodically, but not less than annually, submit to the Agency a statement of the costs incurred by the City in rendering activities and services of the City to the Agency pursuant to this Agreement
4. The Agency agrees to reimburse the City for all costs incurred by City pursuant to this Agreement; however, Agency shall have the sole and exclusive right to pledge any such funds to the repayment of other indebtedness incurred by the Agency.

The costs of the City under this agreement will be shown on statements submitted to the Agency pursuant to Section 3 above.

Although the parties recognize that repayment may not occur for a few years and that repayment may also occur over a period of time, it is the

- express intent of the parties that the City shall be entitled to repayment of the expenses incurred under this agreement, consistent with the Agency's financial ability, in order to make the City whole as soon as practically possible.
5. (Intentionally omitted.)
 6. The obligations of the Agency under this Agreement shall constitute an indebtedness of the Agency to be repaid to the City by the Agency with interest at ten per cent (10%) per annum.

The Redevelopment Project

The project area encompasses 174 acres in the northeast portion of the city, generally running along Highway 50 from Ski Run Boulevard to the California-Nevada border.

The current phase, referred to as the Park Avenue Project, is nearing completion. Some of the highlights of this phase have included building a gondola to the ski slopes, a retail center, time share resorts, expansion of existing shopping, a parking structure, a transit center and public improvements.

Primary financing for the project has been through the sale of Bond Anticipation Notes (BANS), with other fees also contributing to the total financing. Project cost, including interest on the BANS, amounts to approximately \$57 million.

This project has an extremely complex financing plan unprecedented for a city the size of South Lake Tahoe.

The Deficit and Its Causes

David Jinkens stated that after he became city manager in August 2002, there was a general awareness among staff and the City Council that the Redevelopment Agency owed debt to the general fund. Much of it had to do with unanticipated adverse court decisions and other overruns.

After Bruce Budman became the Director of Finance in March 2003, he noted that the city's balance sheets showed negative cash balances in the Redevelopment Agency. Money from the general fund was being used to offset the negative amounts but it wasn't clear how much the deficit amounted to or how it was to be repaid. Budman brought this to Jinkens' attention.

Jinkens advised the City Council of the situation and, with the Council's approval, formed a committee to determine the extent of the deficit and how it occurred.

The committee consisted of Bruce Budman, the Director of Finance; Gene Palazzo, the newly appointed Redevelopment Manager; Brad Vidro, the Director of Public Works; and Don Fraser and Mark Northcross, long-time financial consultants to the Redevelopment Agency.

Due to the complexity of the issues involved, the type of accounting system that had been in place during previous fiscal years, and the fact that most key staff members involved in the project had left city employment, it took the committee six months to reach conclusions.

On November 7, 2003, Don Fraser authored a report that estimated the amount of the current deficit at \$7 million and explained how it had come about. A summary of his findings is listed below. Fraser's complete report can be found at Addendum 2.

Staff also completed a report dated November 10, 2003, on these issues entitled "Discussion of Redevelopment Cash Balances." It can be found at Addendum 3.

Fraser voluntarily testified before the Grand Jury on February 26, 2004 to explain his findings and answer questions. The Grand Jury found him to be a credible witness with expertise in the area of redevelopment financing.

In presenting his findings, Fraser split the financial analysis into two sections, Debt Service/Redevelopment Funds and the Capital Project Fund.

The Debt Service Fund and the Redevelopment Fund are two different funds in the City's accounting records.

The Debt Service Fund receives all major revenues (specifically tax increment and TOT revenues) and makes debt service payments on the Agency's outstanding bond issues. The Redevelopment Fund is used to pay for Agency administrative costs. The committee combined these two funds because revenues received in the Debt Service Fund are also used to fund the administrative costs of the Agency.

The Capital Project Fund has been used to receive other revenue sources and to pay the expenditures for the Park Avenue project.

Based on his investigation, Fraser concluded that the deficit in the Debt Service/Redevelopment Fund category amounted to \$3.2 million and the deficit in the Capital Projects Fund amounted to \$3.8 million

These deficits occurred when expenses either exceeded anticipated costs or when there was a shortfall in anticipated revenue or funding. The following amounts are the major costs that resulted in a deficit condition occurring (the

overall totals in the previous paragraph also include a few smaller cost items that are not listed below):

Debt Service and Redevelopment Funds

Late start at Park Avenue	\$ 500,000
<p>The project started one year later than anticipated. It was estimated that this reduced revenues by approximately \$1 million. This amount was offset by the developer paying the Agency a penalty of \$500,000.</p>	
Embassy Suites Hotel Reduction and Refund	\$ 371,000
<p>In the 2001/2002 tax year, the County reduced the value of the hotel by \$17 million. This resulted in a loss of tax increment revenue in the amount of \$260,000. The County also refunded some of the hotel's tax payments for prior years which resulted in \$110,000 being deducted from the Agency's 2002/03 tax increment revenue payment.</p>	
BANS Proceeds Intended for Administration	\$1,200,000
<p>At the time the BANS were sold to finance the project, \$1.2 million of BANS proceeds were allocated for administrative costs. However, due to cost overruns, the transfer of the \$1.2 million did not occur.</p>	
Overhead	\$1,184,000
<p>During 1999/2000, the City completed a cost allocation plan which allocates the overhead costs of the City to the various operating departments, including the Redevelopment Agency. This was not anticipated at the time the financial projections were done for the BANS and has added approximately \$1.2 million to the deficit.</p>	

Capital Projects Fund

Transit Center – property acquisition	\$1,800,000
<p>The Agency had anticipated receiving \$4.7 million in Proposition 118 funds for this purchase; however, they were only granted \$2.9 million.</p>	
Legal costs – related to property acquisition	\$1,100,000
Road construction cost overruns	\$ 476,000
Relocation cost overruns	\$ 333,000

It should be noted that it is not unusual for Redevelopment Agencies to engage in deficit spending while projects are being built because costs often outpace revenue during that time frame. It would appear that such a situation was anticipated here because Section 4 of the Cooperation Agreement states “. . . the parties recognize that repayment (of all costs incurred by City) may not occur for a few years and that repayment may also occur over a period of time.”

While that may be true, the issue is not whether deficit spending is appropriate but whether the expenditures that resulted in a deficit occurring were subjected to a proper review and approval process.

City Expenditure Process

Each fiscal year, the City enacts a budget that delineates how much money can be spent for certain specified purposes. The budget is adjusted throughout the year to react to changing conditions. Depending on the dollar amount involved, adjustments may be made by the City Manager acting alone or by the City Council by majority vote.

As with most government agencies, the City keeps its cash in one account, i.e., “the pot”. As expenditures are made, they are paid for with checks written on the account. When expenditures for one category exceed the budgeted maximum, money from somewhere else in “the pot” is used to pay the overage. If there isn’t sufficient money in an active fund category to pay the expenses, then money from a reserve account may be used. Pre-approval by the appropriate oversight level should be obtained before funds from a different account are used.

Based on interviews, it appears that, during the fiscal years in question (1999 through 2002), on some occasions, sufficient controls may not have been in place to alert staff when the amount of a particular expenditure exceeded the allowable maximum. In other instances, staff may have been alerted but did not seek spending approval. At the same time, it is apparent that in many cases, particularly those involving litigation, staff did seek and receive approval to spend money over and above the amount budgeted.

In any event, the system allowed overages in redevelopment spending to be automatically covered by the movement of money from other parts of “the pot,” sometimes without timely review by the City Council.

The consensus of staff and elected officials interviewed was that there was an awareness the Redevelopment Agency was involved in deficit spending but there was no idea it was in the \$7 million range. Some thought it was closer to \$2 million and that approval had been given for that amount of money to be taken from the reserves.

While the elected officials were surprised by the size of the deficit when it was finally identified, they added that if they had been asked, they would have approved the expenditures that accounted for the deficit because they were necessary to complete the project and the City had to live up to its contractual obligations. It was also mentioned that the amount of the project overrun, compared to the total cost of the project, was well within industry standards.

The Annual Financial Audit by the Independent Outside Auditor

Section 33080.1 of the California Health and Safety Code requires every Redevelopment Agency to undergo an independent financial audit each fiscal year. The section requires the audit to be conducted by a certified public accountant, licensed by the state, in accordance with the Government Auditing Standards adopted by the Comptroller General of the United States.

For fiscal years 99/00, 00/01, and 01/02 the City contracted with the CPA firm of Moss, Levy, and Hartzheim to conduct the annual independent review of the financial condition of the City's general fund and the Redevelopment Agency. Brett Miller was the firm member who oversaw the audits.

The City has contracted with the firm of Maze and Associates to perform the audits for FY 03/04. At the time this report was being prepared, their audit report had not been completed.

Because of the voluminous nature of the audit reports, only those portions pertinent to this investigation have been included in the Addenda section of this report. The audit reports for the General Fund are included as Addendum 4, 5 and 6. The audit reports for the Redevelopment Agency are included as Addendum 7, 8 and 9.

Typically, the audit reports were completed about six months after the end of the fiscal year and given to city staff. A member of the audit firm also made a presentation on the audit findings to the City Council at a public meeting and answered questions the Council, staff or the public might have.

Findings of the Independent Outside Financial Auditor

The Investigator reviewed the completed audit reports listed above and noted the following information concerning deficits in Redevelopment Department finances:

Redevelopment Agency Audit Report dated September 30, 2001 (Addendum 8)

Page 4A lists two negative variances in the Capital Projects Fund. Both are indicative of a deficit situation. They include a \$1,370,382 negative variance in the Unreserved, Undesignated Reserve Fund and a negative variance of \$1,366,955 in Total Fund Equity and Other Credits.

On page 11, Note 2 of the "Stewardship, Compliance and Accountability" section contains the following statement: "A deficit fund balance of \$1,366,955 exists in the Capital Projects Fund. The deficit is due to the Agency incurring costs in advance of revenues".

Page 5 indicates an unfavorable budget-to-actual revenue and expenditure variance of \$1,334,658.

Audit Report of the Redevelopment Agency dated September 30, 2002
(Addendum 9)

Page 2 lists two negative variances in the Capital Projects Fund. Both are indicative of a deficit situation. They include a negative variance of \$9,365,004 in the Unreserved, Undesignated Reserve Fund and a negative variance of \$3,640,776 in Total Fund Equity and Other Credits.

On page 14, Note 2 of the “Stewardship, Compliance and Accountability” section contains the following statement: “A deficit fund balance of \$3,640,776 exists in the Capital Projects Fund. The deficit is due to the Agency incurring costs in advance of revenues”.

General Purpose Financial Statement for the City dated September 30, 2001
(Addendum 5)

Note 15 on page 30 indicates that at the end of the fiscal year, the Redevelopment Debt Service Fund had an “Interfund Payable” balance due to the general fund of \$2,926,433. In other words, it owed that amount to the general fund.

The audit report describes interfund balances as ones that arise during the normal course of business and are expected to be repaid shortly after the end of the fiscal year.

The Investigator interviewed the lead auditor, Mr. Miller, and asked him to further define the time period contemplated in the phrase “will be repaid shortly after the end of the fiscal year.” Miller stated that was meant to include any balance expected to be repaid before the end of the next fiscal year and that definition was the industry standard.

In actuality, this debt not only was not repaid during the next fiscal year, it continued at a substantial amount as documented in the next paragraph.

General Purpose Financial Statement for the City dated September 30, 2002
(Addendum 6)

Note 15 on page 38 indicates that by the end of this fiscal year, the Redevelopment Debt Service Fund and the Redevelopment Capital Projects Fund had "Interfund Payable" balances due to the General Fund of \$2,445,124 and \$2,149,169 respectively.

The inclusion of these debts as Interfund Payables mischaracterized their true nature because they were not short term in nature and helped to obscure the extent of the Redevelopment Agency's deficit spending.

Page 2 indicates that the General Fund was owed \$5,742,443 from "other funds." Approximately \$4 million of this amount was due from the Redevelopment Agency.

Brett Miller made a verbal presentation to the City Council regarding this audit on June 17, 2003. The Investigator listened to the audiotape recording of that presentation.

During that presentation, there was discussion between Miller and City Council members regarding the negative cash flow in the Redevelopment Agency. Miller stated that in the past, these "loans" appeared to be short-term in nature to be paid back within a year. However, since they continue to be on-going, Miller suggested that an actual loan agreement be setup between the City and the Redevelopment Agency to repay the debt.

Conclusions

From all accounts, the financial reporting system in use in the City of South Lake Tahoe during the years in question (1999-2002) was difficult to understand. It also appears there may have been a lack of notification and/or control in certain situations when overspending was occurring. The City Council was not receiving cogent, on-going spending updates as each year progressed.

The audit reports completed by the independent outside auditor are difficult to understand for people who do not have financial expertise.

However, the Redevelopment Agency audit report dated September 30, 2001 clearly identifies a large deficit in the Agency's Capital Projects Fund and indicates substantial negative variances in the Unreserved, Undesignated Reserve Fund and the Total Fund Equity and Other Credits section. The report presents the deficit in the Capital Projects Fund both as a numerical figure in a box and in verbiage that clearly identifies the amount as a deficit and the reason for its existence. Nevertheless, it does not appear that action was taken by staff or elected officials to memorialize the deficit in a loan agreement as required by the Cooperation Agreement.

Repayment Plan

On March 16, 2004, the City Council heard and approved a plan to repay the \$7 million deficit to the general fund. The staff report outlining the proposed repayment plan and a copy of an unexecuted copy of the "Loan and Repayment" agreement are included with this report as Addendum 10.

The highlights of the repayment plan include:

- The Redevelopment Agency will reimburse the City for all administrative and program costs incurred by the City prior to and after the execution of this agreement in furtherance of the redevelopment programs in the Project Area. Presently, these costs include administrative and program costs of \$3,178,000 and public improvement costs of \$3,829,000;
- A formal loan agreement will be executed and interest will be charged at the applicable LAIF rate.
- It may be possible for up to \$2 million to be returned to the general fund over the next 3 years through the retirement of \$9.4 million of the BANS that come due in October 2004. This return of this money probably will not begin until 2005.
- The balance of the deficit will need to be repaid from the future growth in revenues. (Note: Discussion during the Council meeting indicated that in several years, the completed project should generate approximately \$1 million in excess revenue each year that will go back to the general fund.)

Actions Taken To Prevent Recurrences

After David Jinkens became City Manager and Bruce Budman became Director of Finance, the format of the budget documents were reconfigured to make them more user-friendly. The Council is also being given monthly reports comparing actual expenditures against budgeted amounts in all major fund categories. Examples of these reports can be found in Addendum 11.

Jinkens also reorganized the Finance Department, upgraded the top level finance position from Manager to Director and had the Department report to him directly.

In a staff report to the City Council dated November 16, 2003, City Manager David Jinkens advised the Council of new controls he had implemented to ensure better

accountability and greater review of financial transactions. The complete report can be found at Addenda 12.

Highlights included the following:

- Reserves designated by the City Council for special purposes, as part of the adopted Municipal Budget, shall not be drawn down for uses other than those specified by the Council, without the consent of the Council.
- Public projects (capital, acquisition) expenditures and revenues budgeted in one fiscal year will be brought forward in a budget document for each fiscal year to ensure proper accounting of revenues and expenditures in a particular fiscal year.
- Anticipated cost overruns of capital, acquisition and/or public projects will be reported to the City Council as soon as practical.
- Approval for budgeted expenditures for RDA projects being implemented by other City Departments shall require the approval of the originating department manager, the RDA manager, Finance Department and the City Manager.
- Checks made payable for contracted work shall originate from the appropriate department, signed for approval by the project and department managers for payment, forwarded to the finance department for verification of funds in the approved budget, approved by the finance director and then approved by the city manager.
- The City's independent auditors shall highlight and report any substantive irregularities in the handling of City finances, fund balance issues or internal control issues to the Finance Director, City Manager and City Council, in accordance with generally accepted accounting procedures.

Recommendations

Many of the problems associated with this deficit will be moot in the future because this phase of the project is almost complete and the current philosophy is that no public money will be spent for future phases of the project. Nevertheless, the following recommendations are being made:

1. The City needs to be vigilant in monitoring actual expenditures against budgeted amounts as the fiscal year progresses and must take prompt and decisive action when negative variances are identified. To this end, the monthly budget update information being provided to the City Council should be continued.
2. The City needs to strictly adhere to the financial controls implemented by the City Manager and City Council as outlined in the November 16, 2003 staff report delineated in the preceding section.
3. The City should consider changing independent outside financial auditors on some regular, short-term basis to help ensure an unbiased review of the City's financial condition.
4. When deficit conditions are identified in the Redevelopment Department, the circumstances need to be promptly documented in a manner consistent with the Cooperation Agreement between the City and the Redevelopment Agency.

Written Materials Reviewed

The Investigator reviewed numerous reports and other written materials during the investigation. The most significant included the following:

1. Report from Donald Fraser to Bruce Budman and Gene Palazzo, dated November 7, 2003, regarding the financial status of Redevelopment Project Area No. 1 for the period 1999-2000 through 2002-2003.
2. Report from Staff to City Manager David Jinkens, dated November 10, 2003 entitled "Discussion of Redevelopment Cash Balances."
3. Report from City Manager David Jinkens to the City Council, dated November 16, 2003 entitled, "City and Redevelopment Agency Financial Controls, Review and Action."
4. The General Purpose Financial Statements for the City of South Lake Tahoe for fiscal years 99/00, 00/01 and 01/02.
5. The South Tahoe Redevelopment Agency Component Unit Financial Statements for fiscal years 99/00, 00/01 and .01/02.
6. The South Tahoe Redevelopment Agency consolidated "Statements of Indebtedness" for tax years 2000/2001, 2001/2002 and 2002/2003. These reports are filed annually with El Dorado County.

7. The South Tahoe Redevelopment Agency “Financial Transactions Reports” for FY 00/01, 01/02 and 02/03. These reports are filed annually with the State Controller’s office.
8. Memo from Redevelopment Manager Gene Palazzo to City Manager David Jinkens, dated March 8, 2004 entitled, “Loan and repayment Agreement between South Tahoe Redevelopment Agency and the City of South Lake Tahoe.”
9. Examples of reports regarding the on-going financial condition of the City of South Lake Tahoe now being provided to City Council members on a monthly basis.
10. City of South Lake Tahoe budgets for fiscal years 99/00 through 02/03 (not included in the addenda due to their size).
11. All City Council and Redevelopment Agency meeting agendas and minutes from October 1999 to March 2004.
12. The Redevelopment Agency’s five year Implementation Plan for the period January 2000 to December 2004 (not included in the addenda due to its size).

Addenda

1. Cooperation Agreement between the City of South Lake Tahoe and the South Tahoe Redevelopment Agency dated December 15, 1981.
2. Report from Donald Fraser to Bruce Budman and Gene Palazzo, dated November 7, 2003, regarding the financial status of Redevelopment Project Area No. 1 for the period 1999-2000 through 2002-2003.
3. Report from staff to City Manager David Jinkens, dated November 10, 2003 entitled "Discussion of Redevelopment Cash Balances."
4. Pertinent pages from the General Purpose Financial Statement for the City of South Lake Tahoe for fiscal year 99/00.
5. Pertinent pages from the General Purpose Financial Statement for the City of South Lake Tahoe for fiscal year 00/01.
6. Pertinent pages from the General Purpose Financial Statement for the City of South Lake Tahoe for fiscal year 01/02.
7. Pertinent pages from the South Tahoe Redevelopment Agency Component Unit Financial Statement for fiscal year 99/00.
8. Pertinent pages from the South Tahoe Redevelopment Agency Component Unit Financial Statement for fiscal year 00/01.
9. Pertinent pages from the South Tahoe Redevelopment Agency Component Unit Financial Statement for fiscal year 01/02.
10. Memo from Redevelopment Manager Gene Palazzo to City Manager David Jinkens, dated March 8, 2004 entitled, "Loan and repayment Agreement between South Tahoe Redevelopment Agency and the City of South Lake Tahoe."
11. Examples of the monthly budget update reports now being provided to City Council members by staff.
12. Report from City Manager David Jinkens to the City Council, dated November 16, 2003 entitled, "City and Redevelopment Agency Financial Controls, Review and Action."

**Citizen
Complaint
Form
&
Instructions**



El Dorado County Grand Jury
PO Box 472
Placerville, Ca 95667

Citizen Complaint Form

Person or agency complaint is about

Name:	Tel. #
Address	

Nature of complaint

(Describe events in the order they occurred as concisely as possible. Attach any additional information)

Complaint contacts (List persons or agencies contacted prior to Grand Jury)

Name:	Telephone:
Name:	Telephone:
Name:	Telephone:

Witnesses the grand jury may contact for further information

Name:	Telephone:
Name:	Telephone:
Name:	Telephone:

Describe action you wish the grand jury to take and why

Complainant

Name:	Telephone:
Address:	Drivers License No.

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

Signature: _____ Date: _____

The grand jury will acknowledge its receipt of this complaint.

Instructions & Information For Filling Out and Filing a Grand Jury Citizen's Complaint

The Civil Grand Jury (Jury) is an investigatory body created for the protection of society and the enforcement of the law. It is an arm of the Court and a representative of the public. Although it is an arm of the Court, it operates independently of direct Court supervision. It is a check against governmental authority. It is not a branch of the County, nor is it answerable to the District Attorney.

The Jury has oversight responsibility over local government, such as but not limited to: county government, city government, special districts, local school districts (financial not curriculum). The Jury does not have jurisdiction over the Courts, other counties, federal or state governments or private citizens. Typically the Jury looks at systems and processes. The Jury has no enforcement authority, it can only make recommendations, through publication of a final report, usually published at the end of June each year (See Penal Code 933 & 933.05). The Jury cannot normally resolve or solve emergency situations. Each complaint the Jury accepts for investigation must be investigated thoroughly, seeking out facts, and analyzing the facts prior to writing a report for publication. This is a time consuming process and usually takes many months to complete. You may view the Final Report at <http://co.el-dorado.ca.us/grandjury/index.html>.

The typical process for the Civil Grand Jury a complaint is received, a preliminary investigation is conducted to find out if there is enough information, if the complaint is valid, if the Jury has jurisdiction, etc. and if warranted, a full investigation may be instituted. Upon completion of the full investigation, a report is generated and issued as part of the annual Grand Jury Final Report.

Two Examples

Unacceptable Your neighbor has a barking dog that annoys you. The Jury has no jurisdiction to investigate your neighbor or to enforce barking dog laws.

Acceptable Your neighbor has a barking dog that annoys you and you have contacted the appropriate agency, and they have failed to enforce county or city ordinances. You may file a complaint against the agency, and the Jury does have the jurisdiction to investigate. The Jury does not have the authority to order the agency to take an action or not to take an action, only to recommend a course of action and to make that recommendation public.

Preparation Instructions For Filing A Complaint

1. This complaint is against:
 - a. Include name of agency and/or individual(s) the complaint is against. Ensure correct spelling.
 - b. Give the name of the department involved and the supervisor, if known.
2. My complaint about the above:
 - a. Be clear and concise. Do not use broad statements.

- b. Attach copies (no originals) of all available documentation, receipts, photos, letters and notes of conversations or observations that support the complaint.
 - c. Number all attachments consecutively and on a separate page, describe each document using the corresponding number.
 - d. Describe all past or pending legal actions, either civil or criminal, related to your complaint.
3. Describe the action you wish the Jury to take and why.
 - a. Keep in mind the Jury's jurisdiction.
4. List all other agencies, officials, attorneys or others you have contacted about this matter.
 - a. Provide a complete list of all persons contacted.
 - b. Include the address and/or telephone number of each.
 - c. Attach copies of any documents you shared with those contacted.
 - d. Provide a summary of conversations with those you spoke to, including the date, their names and telephone numbers.
 - e. Describe the results of these contacts.
5. About you:
 - a. Include your name, address, and telephone numbers. Anonymous complaints may not be investigated.
 - b. You should sign and date the complaint form. The Jury may not respond to unsigned complaints.

Do not send originals! Copies will not be returned.

Send this complaint along with copies of any documentation to:

El Dorado County Grand Jury
P.O. Box 472
Placerville CA 95667

Tel 530/621-7477
Fax 530/295-0763
<http://co.el-dorado.ca.us/grandjury/index.html>

Your Confidentiality Will Be Rigorously Protected