

# **EL DORADO COUNTY GRAND JURY 2013-2014**

## **PAST ANIMAL CONTROL FACILITY MISTAKES HAVE PROMPTED A BETTER REAL ESTATE ACQUISITION AND LEASING PROCESS FOR EL DORADO COUNTY**

Case Number GJ-13-09

### **Reason for Report**

A citizen complaint of alleged county fiscal negligence as well as ongoing media attention prompted the El Dorado County Grand Jury to investigate and assess the status of the county's animal control shelter facility. The investigation led the Grand Jury to review the current county real estate acquisition and leasing process.

### **Summary**

The 2006 animal control site purchase and development plan decisions resulted in wasted public funds. New focus and procedures initiated by the Chief Administrative Officer (CAO) have the potential for more professionally qualified individuals and a more responsive facilities function in the county. The new animal control facility is an example of the effectiveness of those new procedures in that it will open this fall on-time and on-budget and at a reasonable cost to tax-payers.

### **Actions**

- Documents reviewed:
  - Purchase contract County/Shinn Ranch dated May 9, 2006
  - Purchase contract for current project dated December 12, 2012
  - County Facilities Division planning grids, and lease schedules.
  - County Procedures
  - County BOS Records
- The complainant and associated witnesses were interviewed.
- Current and former employees of Department of Transportation, Facilities Division, Procurements and Contracts Division, Chief Administrative Office (CAO) and Surveyor's Department were interviewed.
- The new animal control site and building were inspected.

- The Grand Jury made inquiries as to the practices in other California counties regarding leases and acquisitions.

### **Background – Animal Control Facility**

In 2006 the county purchased land in the community of El Dorado, referred to as the Shinn Ranch, with the intent of building a new animal control facility. The county had been informed that it would need to move their existing animal control shelter from its Cold Springs Road location near the water treatment plant because that plant needed to be expanded. It was estimated at that time that a new animal control shelter facility built on the Shinn Ranch property would incur a total project cost of \$5,481,000 dollars and take 2 years to complete.

In order to handle animal control needs until the new shelter was completed the county signed a lease in December of 2007 to temporarily operate animal control at 511 Placerville Drive and 415 Placerville Drive at a leased space cost of approximately \$103,903 dollars per year (\$84,000 dollars for the shelter space, plus \$19,903 dollars for the administration space). There were other ancillary costs including operating inefficiencies due to the shelter and administration being in different locations and from the necessity to house large animals off-site. The county animal control operation is still in those spaces nearly seven years later.

In January of 2012 the revised cost estimate for the Shinn Ranch property project increased to \$11,900,000 dollars, over \$6,000,000 dollars *more* than the original estimate. The Grand Jury identified a number of components causing this huge increase in project cost:

- The Shinn Ranch property and building plan specifics were selected by the BOS *despite* staff recommendations of other less costly yet suitable options.
- The Shinn property had some major use restriction problems: a stream bed running through the property and oak trees that could not be removed greatly reduced the usable space for build-out and use of the 10 acre property.
- The property required costly road and utility access.
- The onset of the recession affected the financial dynamics between building new versus buying property with existing building(s).
- There were concerns at that time that county staff did not have adequate project management capabilities.

The county has long since acknowledged that the Shinn Ranch project was rife with problems. At the April 17, 2012 Board of Supervisors (BOS) meeting the CAO opened the

proposed new animal control shelter site agenda topic with “a ‘mea culpa’ that she described as a ‘well-deserved F’ for our performance on the animal control shelter and the many times we’ve stumbled over the past seven years”. The Grand Jury notes that these problems occurred under a prior BOS and CAO. At the April 17, 2012, meeting the BOS voted to eliminate the Shinn Ranch as an option for the county animal control facility and pursue other suitable sites. The county still owns the Shinn Ranch property with a potential contractual obligation for road and utility improvements.

The county began a new site search following that April 17, 2012 Board action and ultimately purchased a 4.6 acre site with an existing on-site 22,000 sq. ft. building in Diamond Springs.

The county now anticipates a September 2014 opening of the new animal control facility with a total project cost that is estimated to be \$5,700,000 dollars; only 4% above the original cost estimate of 2006.

### **Background – County Real Estate Leasing and Acquisition Process**

The everyday business of El Dorado County happens between the shores of South Lake Tahoe and the rolling hills of El Dorado Hills. Within those county lines lie 740,000 square feet of county owned facilities with an estimated replacement value of a quarter of a billion dollars and 130,000 square feet of leased facilities represented in 25 separate leases at an annual cost of just under \$1,900,000 dollars (attachment A).

In an effort to improve the focus on county facilities the facilities function was moved from a small component in the Department of Transportation to a division under the CAO in late 2011.

The CAO created a cross-functional advisory team in the first quarter of 2012 to help guide *strategy, direction and priorities* in the facilities division. This diverse team, referred to as the Facilities Investment Team, includes two County Supervisors, the CAO, the Assistant CAO, the County Surveyor, the County Assessor, the County Recorder-Clerk, the Chief Budget Officer, the County Sheriff and the Facilities Division Manager. Its mission statement is “*The management and safeguarding of the significant investments in our county facilities, parks and trails. Anticipating the needs of the county in order to provide for uninterrupted services to members of our community. Providing services to departments and visitors that assist with their efficient operations and providing a positive and welcoming environment.*” The role of this team continues to evolve and its members may change over time at the discretion of the CAO.

1. The Facilities Division has created a draft of new procedures (attachment B). The two key changes to past practices are: the inclusion of all appropriate county functions in the purchase or leasing decision making process, and

2. The option to selectively use outside real estate professionals in the research and negotiation process of leases or purchases.

The process of selecting the new Diamond Springs animal shelter site included input and sign-off from all affected departments: Health & Human Services, County Counsel, Procurement and Contracts as well as the BOS. The county used an experienced professional real estate broker with an abundance of resources and market data that added value to the process by providing appropriate site options, assistance in vetting those options and support in negotiating the purchase contract.

The use of an outside real estate broker has met with some negative public comment. The Grand Jury reviewed the most current 2 years of lease and purchase projects. Of those 27 projects, four have utilized the services of a real estate broker. One individual has been used for all four projects. The total value of those four projects was \$8,599,458 dollars; the total net brokerage paid was \$235,020 dollars. As is typical in commercial real estate, these payments were paid by the seller or landlord. These payments represented a commission rate of 2.73% (attachment C).

The Facilities Division and the Facilities Investment Team has brought focus and professionalism to the county's acquisition, leasing and maintenance process. Some recent examples are as follows:

- A new animal shelter on schedule and on budget at \$5,700,000 dollars
- Renegotiated older leases at a savings to the county of over \$5,000,000 dollars spread over 3 to 10 years
- Better utilization of county owned buildings allowing departments to be moved from leased space to county owned space at a savings to the county of \$131,000 dollars annually.
- Performed a complete asset condition audit and provided a prioritized deferred maintenance plan.

## **Findings**

1. Between Environmental Impact Reports, Architectural Studies and the extended leasing of the temporary facilities in Placerville, the Shinn Ranch site decision cost the county hundreds of thousands of dollars which cannot be recovered.

**Response:** The respondent agrees with the finding.

2. The County has taken steps towards an improved leasing and acquisition process by involving qualified professionals and clear written procedures.

**Response:** The respondent agrees with the finding.

3. The Grand Jury concurs with the creation of the Facilities Investment Team as an advisory body for the facilities function.

**Response:** The respondent agrees with the finding.

### **Recommendations**

1. The Grand Jury recommends the Facilities Investment Team concept be kept active, but reviewed by the CAO on a regular basis for its effectiveness.

**Response:** The recommendation has been implemented. The CAO will continue to work to keep the Facility Investment Team active in helping to guide strategy, direction and priorities in the Facility Division. Their findings and recommendations will be brought back to the Board of Supervisors when there are significant transactions or the need for policy decisions.

2. Although we found no evidence of improprieties, the same individual was used in each of the four projects where a real estate broker was utilized. We recommend that the CAO and Facilities Investment Team review the procedures and criteria for contracting with a real estate broker and *propose an appropriate policy*. This recommendation should ensure that the selection and decision process is competitive and transparent.

**Response:** The recommendation will not be implemented because it is not warranted. For non-public works projects or services for which there are no conflicting state or federal requirements, contracting out is mainly governed by California Government Code, the El Dorado County Charter, and County Ordinance Code and Policies. Government Code authorizes counties that employ purchasing agents to contract for services without soliciting bids. The County Charter requires that certain findings be made prior to contracting out.

There is no requirement for a competitive bid process for consulting services under California Government Code or under County ordinance and policy; however, when deemed appropriate the County may opt to solicit proposals for such services. The process for soliciting proposals for services is in Board of Supervisors Policy C-17.

3. The Grand Jury recommends the draft regarding Facilities Division Procedures be formalized by the CAO and then presented to the BOS for adoption.

**Response:** The recommendation will not be implemented because it is not warranted. The County is in the process of reviewing all current ordinances and policies. The Board has directed that ordinances and policies be streamlined, and no more restrictive than State or Federal law. While the Facilities Division of the Chief

Administrative Office would be happy to bring an informational item to the Board regarding its procedures for acquiring property, this type of internal departmental procedure is not appropriate to be formalized as a Board of Supervisors policy. The procedure may be included in an administrative procedures manual, which will eventually be created as part of the larger ordinance and policy review project.

4. This Grand Jury recommends that the 2014-2015 Grand Jury review and follow up on the response to recommendations 2 and 3.

**No response required**