



COUNTY SERVICES AND SPECIAL DISTRICT COMMITTEE

MISSION STATEMENT

The County Services and Special District Committee of the 2015-2016 Kern County Grand Jury is responsible for reviewing and overseeing the management, ethics, performance and execution of fiscal responsibilities of all County Service Departments and the 99 Special Districts within Kern County. The Committee may investigate citizen complaints alleging managerial or fiscal irresponsibility. The Committee may make recommendations for improvements to maximize efficiency of Departments/Districts and to eliminate waste of taxpayer funds.

Members: Loretta Avery, Chairperson, Dave Aronson, Lena Gonzalves, Jerry Henry

SPECIAL DISTRICTS AND COUNTY SERVICES COMMITTEE

SUMMARY OF ACTIVITIES

The 2015-2016 Special Districts and County Services committee has visited and written reports on:

- Buttonwillow Recreation and Parks
- Golden Hills Community Service District
- Lamont Public Utility District
- Letter to Rosamond Community Service District
- Mountain Meadows Community Service District
- South Kern Cemetery District
- Tehachapi Resource Conservation District
- Wasco Recreation and Parks
- Westside Recreation and Parks

Notification letters to smaller Special Districts (22) re: Small Districts Audits

The Committee investigated 21 citizen complaints.

The Committee has traveled 450 miles for investigations.

Committee members also accompanied other committees on visits to:

- NASA facility at Edwards AFB
- KCSO K-9 Unit
- KCSO Helicopter Unit

BUTTONWILLOW RECREATION AND PARKS DISTRICT

PURPOSE OF INQUIRY:

The 2015-2016 Kern County Grand Jury (Grand Jury) performed a review of the Buttonwillow Recreation and Parks District (District) pursuant to Penal Code §933.5. The reason for the review was that some of the parks and recreation districts in Kern County had not been visited in a number of years and this District had not been visited since 2003.

PROCESS:

The County Services and Special District Committee (Committee) conducted an interview with the General Manager, who is also the Finance Manager, on December 8, 2015 and was given a tour of the facilities. The Committee subsequently reviewed the Meeting agendas, Meeting minutes, current budget and previous audits.

BACKGROUND:

Buttonwillow is located 26 miles west of Bakersfield with a population of 1,508 at the 2010 census. The township of Buttonwillow has a total area of 6.9 square miles; however the District services an area of approximately 400 square miles. Buttonwillow is locally known as cotton country, due to the abundant planting of cotton in the vicinity. Beginning about four miles south of town along Elk Hills Road, between Buttonwillow and Taft, is the large Elk Hills oil field and reserve. Traditionally the petroleum industry has supported the majority of tax based services in Buttonwillow, including the District.

Buttonwillow is also the host to one of California's three toxic wastes dumps; the Lokern Facility. The facility is currently owned and operated by Clean Harbors Co., and lies eight miles west of the city. It was created in the 1970s by the state, without the notification to any of the county's residents. State Highway 58 runs through the heart of Buttonwillow and this road is important because it is used as the main route for trucks from the facility to transport toxic loads. At times, as many as 200 trucks travel this route per day.

The District was formed in 1974 and operated out of a very modest building. In 2008 a bond proposition, Measure F, was placed on the ballot for Buttonwillow residents to consider. The measure authorized the District to borrow \$4,870,000 and was approved by a 76% to 24% margin. This bond funded a 16,500 square foot Multi-Purpose Facility which includes a conference room, fitness rooms and offices for the district staff and a senior center. Swimming pools and restrooms were also built outside as part of the Multi-Purpose Facility. In the same location, the District also has refurbished the baseball, softball and soccer fields. Playgrounds and a covered area for group outings are also available.

FACTS:

- A. The District posts the Board of Directors Meeting agenda one week prior to the meeting at the District office. They have attempted to post the agenda in other locations but have no control over other sites causing unsatisfactory results.
- B. The District does not post minutes of the Board of Directors Meeting.
- C. The District does not have a website, other than a Facebook page, to inform the public of activities.
- D. The Board of Directors accepts no compensation and members have remained on the Board for many years.
- E. The District has relied on Property Taxes, primarily from the petroleum industry, to fund most of their annual budget (84% in 2013-2014 and 81% in 2014-2015).
- F. Due to decreasing tax revenue, the District is operating at a deficit for 2015-2016.
- G. There are four full time employees, consisting of a General Manager, Program Director, Park Supervisor and Maintenance Supervisor. There are also two part time workers and the District typically adds 10 seasonal employees.

FINDINGS:

- F1.** The District operates on a modest budget that proposes to operate at an approximate \$260,000 deficit this year.
- F2.** The District Board of Directors has agreed to supplement this year's budget for the District from the \$1.3 million cash reserves.
- F3.** The oil industry is at a low period of \$/barrel pricing for its product. This is expected to last for at least the next two years. The projected tax deficit will result in a revenue problem for the District extending into at least 2017.
- F4.** The District and Board of Directors has not drafted a formal contingency plan for operation of the District in the out years without the tax revenue necessary, other than to rely on limited District reserves. The contingency plan may include support from the Buttonwillow Community Resource Center which receives funding from the environmental facility.
- F5.** The District has a committed Board of Directors as well as having excellent facilities and staff for such a small community. The programs offered have had outstanding reviews based on the District's Facebook page.

F6. The District only posts the Meeting agendas at the District Office and does not post Meeting minutes.

COMMENTS:

The Committee would like to thank the General Manager for help in answering our questions and a tour of the Facilities. The District appears well run and has an excellent facility much needed for this community. The Committee wishes to acknowledge the commitment of the General Manager, District Staff and Board of Directors to the community of Buttonwillow.

RECOMMENDATIONS:

- R1.** The Grand Jury recommends that the District develop a formal contingency plan for expected budget shortfalls in the out years. The contingency plan should be communicated to the community when completed. (Finding F4)
- R2.** The Grand Jury recommends that the District post board minutes at the District Office in addition to the Board Meeting agendas. The Grand Jury also recommends that the Board agendas and minutes be posted in a second location. The Grand Jury recommends that the District approach the Buttonwillow Chamber of Commerce about posting agendas and minutes on their website. (Finding F6)

NOTES:

- The Buttonwillow Recreation and Parks District should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301APPENDIX:**



P.O.Box 434 556 Milo Ave.
Buttonwillow, CA 93206
661.764-5205 fax 661.764-5383

Kern County Superior Court
Presiding Judge
1415 Truxtun Avenue, Suite 212
Bakersfield, California 93301

February 18, 2016

Dear Presiding Judge,

On behalf of the Buttonwillow Recreation and Park District, I wish to thank the Kern County Grand Jury for the recent visit. The Special District Committee toured our facilities and asked questions regarding our administration, programs, events and facilities.

The recommendations were reviewed by my Board of Directors.

R1. In April we will begin the process of planning our budget for the upcoming 2016-2017 fiscal year. A contingency plan will be developed for our shortfalls in the out years.

R2. The General Manager has begun posting the minutes of the meeting. A second location was located in our community. We will post our meetings at Buttonwillow Community Water District. This is located in the center of our community. It is a place where many people go and will see the minutes.

The Buttonwillow Chamber of Commerce may be considered. We will review their website to insure that its up to date.

A copy of the report is available to the community. It's available at our front office.

Again, thank you and we look forward to future visits.

CC:Weslie Brown, Foreperson
Kern County Grand Jury
1415 Truxtun Avenue, Suite 600
Bakersfield, CA 93301

A handwritten signature in blue ink that reads "Marie Parsons".

Marie Parsons
General Manager

GOLDEN HILLS COMMUNITY SERVICE DISTRICT

PREFACE:

The 2015-2016 Kern County Grand Jury (Grand Jury) found that board members have failed to include participation of the residents in many of the decisions impacting the community. Ralph M. Brown Act §54950 states: *“Public commissions, boards, councils and other legislative bodies of local government exist to aid in the conduct of people’s business. The people do not yield their sovereignty to the bodies that serve them. The people insist on remaining informed to retain control over the legislative bodies that they have created.”*

SUMMARY

The Golden Hills Community Service District (GHCS D) was formed by Kern County Resolution 66-206, May 3, 1966. The Mission of the District is, *“To provide the Golden Hills Community with a healthful, reliable water system; to support the inviting characteristics of our neighborhoods and natural beauty of our surroundings; and to strengthen our collaborative relationships with local and state governmental agencies.”*



In 1975 the residents of Golden Hills Community Service District voted to not accept control of the golf course. The Boise Cascade Company built the golf course in the 1960’s and then sold the golf course to a private owner following the GHCS D vote. The golf course went out of business in 1991. The grounds and the golf course lake (Tom Sawyer Lake) deteriorated over the following years. The water collection system that diverted fresh water to the lake was damaged during a winter storm, causing the lake water level to be reduced. The only water flowing into the lake, except from rain and snow runoff, was from a private sewage treatment company. This situation remains the same today. In 2014 the District purchased the Golden Hills Golf Course and the Club House property. The intended uses for this property are under consideration.

The 2014-2015 Kern County Grand Jury received multiple complaints about the District. Due to time constraints, a complete investigation could not be done. This Grand Jury’s initial inquiries identified several concerns which merit further independent investigation by the 2015-2016 Grand Jury. Further key issues were identified by the current Grand Jury which are discussed in this report:

- Conflict of Interest
- Brown Act violations
- Non-compliance to CSD Law and District Policy (District Handbook)
- Hostile work environment
- Lack of Transparency

PURPOSE OF INQUIRY:

The County Services and Special Districts Committee (Committee) of the 2015-2016 Kern County Grand Jury reviewed the District pursuant to California Penal Code §933.5.

PROCESS:

The Committee reviewed CSD law, the GHCSO Code of Conduct for Directors, the District Handbook, Brown Act code, Robert's Rules of Order, Grand Jury Reports, newspaper articles, GHCSO agendas and minutes and attended the regular board meetings on August 20 and on October 15, 2015. District facilities were toured including publically accessed Golden Hills Sewer Company (GHSC) properties. Additionally, the Committee interviewed GHCSO staff members, all of the Board of Directors and concerned citizens in Golden Hills. The Committee reviewed the District's past audits plus current and past budgets. Engineering reports and other documents relevant to GHSC were also reviewed. The Committee has also conducted multiple discussions with County Counsel during the formulation of this report.

FACTS:

- A. The Golden Hills Community has an estimated 8,000 people and is an educated population with almost two-thirds having attended college (age 20 years and older). Many of these people work in areas such as Bakersfield, Lancaster and Edwards Air Force Base. In all of these cases the commute is approximately an hour or more.
- B. The primary responsibility of the Board of Directors is the formulation and evaluation of policy. Routine matters concerning the operational aspects of the District are delegated to District management and staff members. (CSD Law §61051 and Code of Conduct for Directors §8.03)
- C. In 2013, the GHCSO assumed active power control over solid waste disposal in Golden Hills. Benz Sanitation already had a contract with Kern County for solid waste disposal in Golden Hills, but not with GHCSO. The Board and District Management were in complete agreement that the competitive bidding process be done for the benefit of Golden Hills residents and went through the legal process to accomplish the action.
- D. The District contracts with the three senior management employees were negotiated by the outgoing Board in November 2014. Those contracts were due to expire prior to the seating of the new Board. This would have left the employees exposed to potential termination upon 30 day notice by the new Board. Traditionally, the outgoing Board also completes the General Manager (GM) performance review annually. The Board has authority for the performance evaluation and compensation of the GM.

- E. The Brown Act does not require that written minutes of meetings be taken. However, Robert's Rules of Order state that written minutes be published and that the minutes should identify discussion points and actions taken. The GHCS D has adopted the Roberts Rules of Order, as stated in the Code of Conduct for the District.
- F. According to the U.S. Equal Employment Opportunities Commission (EEOC), hostile work environment protection is provided by Title VII of the Civil Rights Act of 1964. Hostile work environment is also a violation of California labor law. Offensive behavior that may contribute to a hostile work environment can include, but is not limited to the following:
- Interference with work performance
 - Intimidation
 - Ridicule
 - Insults
- A victim of workplace harassment, or a witness to such, may have the right to file a hostile workplace lawsuit against the offender and employer that permitted "*on the job harassment*". California is reportedly one of the least-tolerant states regarding discrimination and hostile work environment.
- G. In April 2014, the District purchased the Tehachapi-Woodford golf course property and Clubhouse. At approximately the same time, the Golden Star and the Moon Drive properties were purchased for water rights. Total property expenditures were approximately \$885,000.
- H. A conflict of interest exists in a matter for consideration or determination by the Board if a Director has reason to believe that he or she will derive a monetary gain or suffer a monetary loss by reason of his or her official Board activity. (Fair Political Practices Commission §18700, Basic Rule and Guide to Conflict of Interest Regulations)
- I. The potential purchase of the Golden Hills Sewer Company has been studied in three separate reports. These include an initial Kern County study, an AECOM study financed under grant by Kern County and a Provost and Prichard Report underwritten by GHCS D. All of the studies showed financial shortcomings with the continued operation. They also evidence a high level of capital improvement requirements. The AECOM report has been finalized whereas the Provost and Prichard report is not.
- J. To avoid loss of District property, the GHCS D maintains and decrees security procedures. These include: maintain control of entrances, exits, restricted areas, document control and record keeping. In addition, employees are expected to comply with District policies regarding the authorized and secure use of the District's computer technology. The GM is responsible for security of the office and other District facilities. Employees are expected to abide by all the District security procedures. Also, by District policy, the GM has authority to lock down the facilities and entry is disallowed without his permission. (District Handbook pages 41-42)

- K. According to interviewed sources, the GM has authority for expenditures up to \$30,000 and can make a contract commitment up to \$120,000 without board approval. Individual Board Members have no purchase authority. However, the Board of Directors can make purchase decisions providing proper protocol is followed.
- L. In Article IV, §4.04 of the GHCS D Code of Conduct; *“The General Manager is responsible for the appointment, supervision, discipline and dismissal of the District’s employees in accordance and consistent with District’s employee relations system established by the Board of Directors. He or she shall have charge of all employees and assistants”*. In this respect, it is implied that all work assignments must be approved by the GM. In addition in Article VIII, §8.03: *“...the staff is directed to reject any attempts by individual Directors to unduly influence or otherwise pressure them into making changes, or suppressing staff decisions or recommendations, or changing staff work schedules or priorities”*.
- M. The Greater Tehachapi Area Specific and Community Plan, dated December 2010 states in 2.3.1 General Land Use and Development Policy LU.2: *“Require that all new residential subdivisions where any created lot will measure 2.5 gross acres or less, all new commercial and all new industrial development be served by adequate sewer systems. In the event that the development cannot be served by public sewer, the project proposal shall include a package sewer treatment plant or a request for a sewer exception from Kern County Engineering, Surveying, and Permit Services”*.
- N. Since the seating of the new board, Agenda packages are done by the Board Secretary and the Board. As stated in the Brown Act §54954.2, it is required that all items placed on open and closed Board meeting agendas are posted no later than 72 hours prior to the meeting. In the case of GHCS D, this involves posting at the Community Services District building and on the District website.
- O. Since the beginning of 2015, the Board has met in closed session twice a month and sometimes four times a month. The California Special Districts Association (CSDA) in their Guide to Special District Laws and Related Codes states: *“Closed sessions are allowed in very select circumstances, and a legislative body should go into a closed session only when absolutely required”*. The public must be informed of the closed session, and a brief description of the items on the agenda must be given. This is to ensure transparency of issues.

FINDINGS:

- F1. A trash collection initiative in 2013 and subsequent recall attempt split the GHCS D and the community. In 2013 the District attempted to assume control over solid waste disposal in Golden Hills. Benz Sanitation already had a contract with Kern County for solid waste disposal, but not with the District. Benz declined to bid on the Request for Proposal issued by GHCS D. They then went to the Local Agency Formation Commission (LAFCo) to review GHCS D power over solid waste disposal as either a latent or active power. LAFCo supported GHCS D after extensive

documentation was provided. This decision started a recall election against the entire District Board of Directors which was defeated by lack of signature support. On the surface, this appears minor in nature. In fact, the Board and the Management group were in 100% agreement that the competitive bidding process be done. However all of the parties interviewed in this investigation point to this as the beginning of the turmoil between factions in the community. One opposing faction was led by a prominent businessman and resident of Golden Hills who has long term ties with Benz Sanitation.

- F2. Through the use of standing committees, made up of two board members, the Board has taken control of operational aspects that are typically performed by staff. For example, a meeting was initiated by a Board member with the City of Tehachapi to ask for financial and/or technical information on the Forced Main option (pressurized feed line) for tie in of GHSC to the Tehachapi water treatment facility. The response letter from Tehachapi stated that this is a matter for discussion between Golden Hills management and the City of Tehachapi.
- F3. The proposed purchase of the Golden Hills Sewer Company has been studied in three separate reports. All studies show financial shortcomings with the operation and a high level of capital improvement requirements. The GHCSO Financial Committee reportedly revised the financials for GHSC to reflect lower costs and potential higher revenues. The managers are not in agreement with the modified numbers. Issuance of the final Provost and Prichard report awaits District finalization of the financial projections. The District managers are opposing the purchase of the GHSC based on the initial engineering studies which they believe to be correct. The majority of the board members have stated that they are in favor of the purchase for reason of the water effluent feeding into Tom Sawyer Lake and for overall GHCSO control of the company. A Letter of Intent to purchase the GHSC has been approved to be sent. The Committee confirmed in numerous interviews that the amount of water feeding the lake fails to meet or exceed the evaporation rate in the warmer months.
- F4. A number of documents on the proposed sewer company acquisition are available on the GHCSO website under Document/Wastewater. Within these documents is an addition to the existing tables from the GHCSO Financial Committee. The 2nd draft includes a letter from the GHCSO Financial Committee which states; *“The GHCSO Business Manager ensured that the salaries and operations cost estimates were vetted to the level of a public agency standard”*. In an interview, the business manager adamantly denied identification with the numbers and instructed the Board President she could not support the numbers that the Financial Committee presented. To do so would potentially jeopardize her Certified Public Accountant license. The numbers published by the GHCSO Financial Committee were in line with the financial numbers published by the GHSC. On the other hand, the financials are in conflict with the numbers presented by AECOM and Provost and Prichard. The main points of disagreement were the costs of operations, administration and reclamation. District management believes that the financial numbers from the AECOM and Provost and

Prichard professional consultants reflect full costing of operations and administrative costs while the GHSC and GHSCSD Financial Committee reports do not.

- F5. Acquisitions of the Tehachapi-Woodford property and the Golden Star and Moon properties in 2014 were negotiated by the General Manager and the President of the Board. These actions were subsequently voted on in closed session and announced in open session. This is simply not done using lawful CSD defined process.
- F6. In a recent development, one of the Directors made a motion to the Board to subdivide the Moon Drive property into sixteen one half acre parcels. The current minimum lot size is 2-1/2 acres in order to support a septic tank system on each property. If the lot sizes are 1/2 acre (approximately), each parcel would be required to hook up to the sewer company. Sub-division for sixteen additional sewer hook-ups is in itself, a financial incentive for the District to favor ownership of the Sewer Company. The sewer line hook up has a current fee of \$3600, or \$57,600 for the sixteen lots. The water meter capacity fee is \$13,661 for each lot, or a total of \$218,576. Given the financial implications, it may be a conflict of interest for the Director, who made the motion, to act as the realtor representing the sale of these properties.
- F7. The District reportedly purchased the Golden Star and Moon Drive properties for water rights. They originally had no intention for developing the two properties, other than offer a location for a Kern County fire station on the Golden Star property. In the Greater Tehachapi Area Specific and Community Plan, dated December 2010, any development of land under 2.5 acres is subject to the requirement of a public sewer system. Any request for a sewer exception must go to the Kern County Engineering, Surveying, and Permit Services. If either of these two properties were to be developed they would have to use the existing GHSC system. The development costs would be extremely high. This would result in major sanitation construction on Kern County roads to get to the GHSC. One consideration would be a bond ballot initiative that would cost the entire community of Golden Hills. However, if the District purchases the GHSC, grant monies could be possible.
- F8. In open session of the Special Board Meeting of January 28, 2015, members of the Board criticized the General Manager about changing the entry code on the door to the staff office area. This disallowed unrestricted entry to Board members. Members of the Board wanted unrestrained entry to the staff offices and files. Management said "No". The Board subsequently voted to direct the General Manager to give the Board the code for the office area. The District Handbook for Golden Hills staff states that the General Manager is responsible for all the staff employees in regard to all handbook policies. He also has the obligation and authority for ensuring these policies are followed along with all issues associated with the Privacy Act. If this policy is violated, the General Manager is expected to remediate the action and issue any disciplinary action to the employee. The Board of Directors having the same code and potential accessibility twenty-four hours a day, seven days a week, compromises the ability of the General Manager to comply with his duty. The

General Manager has no power over the Board if a violation occurs. Conversely, not having the codes allow a level of protection for the Board if a violation were to occur.

- F9. On March 25, 2015, the President of the Board requested the District’s Password to the CalPERS account from the General Manager and was denied. At approximately the same time the request was also made by the Board President and Vice President to the Human Resources Manager and was again denied access. The Board President and Vice President are elected officials and should not have access to these types of accounts because of the Privacy Act. CalPERS is very explicit about Privacy Act violations.
- F10. Starting in January 2015, the GHCS D has minimized the meeting minutes to the extent that no substantial substance has been explained on the topic issues. It has been announced by the Board that any member wishing a full description of a meeting can obtain it by requesting a recorded disc (at a fee).
- F11. The Committee accessed all of the Regular Board Minutes and Special Board Minutes from the GHCS D website for 2014 and 2015 (ten months). The frequency of closed meetings is excessive by Brown Act standards.

Total Meetings	Board of Director Meetings (Closed Session)	No Action Taken
11	2014 Regular Board Meetings 11 Closed Session (100%)	8 sessions
10	2014 Special Meetings 5 Closed Sessions (50%)	4 sessions
14	2015 Regular Meetings (to date) 14 Closed Sessions (100%)	13 sessions
16	2015 Special Meetings 10 Closed Sessions (63%)	9 sessions

- F12. Since December 2014, the primary topic of monthly closed session meetings is the General Manager’s performance review. Of 14 Regular Board Meetings, 11 had Closed Sessions to discuss the General Manager’s Evaluation and of 16 Special Board Meetings, 6 had Closed Sessions to discuss General Manager’s Evaluation. CSD law states that there should not be a closed session other than for a rare need. Personnel issues are allowed. However, continued evaluation of an employee over an extended period of time is ineffective and derisive. It can also be expected to change the work attitude of the person involved.

- F13. Acting on the issue of lack of transparency identified by previous Grand Juries, the General Manager made the decision in late 2014 to purchase video streaming equipment for the board room. This equipment was installed February 2015, but has not been turned on for use, citing the lack of a policy directive. In the course of interviewing the Directors, it was reported to us that the purchase of the equipment ruffled the feathers of some of the Board members because it was not vetted with the Board beforehand. Yet, it is in the minutes that the purchase of the equipment was approved by the Board. The General Manager had authority to make discretionary purchases up to \$30,000 without Board approval.
- F14. Complaints and comments received from senior management and clerical employees evidence several problems with “workplace harassment” by the Board of Directors. This includes:
- Interference with work performance
 - Intimidation
 - Ridicule
 - Threats
- Also, management and staff personnel have reported that some of the Directors go directly to them to assign work tasks. The GHCS D Code of Conduct §§4.04 and 8.03 says that all work activity must be assigned through the GM. Staff members have stated that the current practice is highly disruptive in their performing normal work duties. The problem has been reported to the GM and to the Board but no corrective action has been taken.
- F15. The General Manager, as reported by other staff members, has been coerced into doing (or not doing) what the Board demands even though requests are non-compliant with District policy. It has been said that the main threat is job security. As one example, the GM admittedly is not involved in the process of developing the Agenda packet. He attributes this to Board exclusion and the fact that the new Board Secretary does work almost exclusively for the Board of Directors. In the past, the Board Secretary did work for senior staff as well as for the Board members.
- F16. In the Regular Board Meeting of November 20, 2014, some people (four identified by name) expressed their desire that the 2014 Public Employee Performance Evaluation be continued to a later date to afford additional time for review. These people were mostly related to or had friendships with the aforementioned “prominent businessman and resident”. If the Board had agreed with this action, the contracts with the employees would have expired and they would have been at risk to be dismissed with 30 days’ notice.

- F17. The 2014 Board of Directors voted on new contracts for the three senior managers before the 2015 Board took office in December. The new contracts extended the severance term from 12 months to 18 months in the event that the employee was terminated (for other than cause). The vote was 3 Aye-2 Nay and was passed. The two dissenting board members moved onto the new board along with two newly elected board members. The four members of the current Board that did not or could not vote yes to the new contracts stated to the Committee that the contract terms were essentially forced on them.
- F18. The 2014-2015 Grand Jury Report to Golden Hills had the finding; *“Directors are not following the Brown Act in failing to agenize items discussed in closed session.”* The Board’s response to the Report stated; *“The District does not have sufficient information to respond to this finding because the finding does not describe any items discussed by Directors in close session that were not properly described on an agenda”*. In the regular meeting minutes of August 21, 2014, on reporting of “Memo to the Board” dated July 15, 2014, (that was turned over to the Legal Counsel for response) Legal Counsel responded that the author of the memo to the board had made some good points and that *“the District would (sic) to be more diligent in announcing what will be addressed in closed session. Further, although the code is silent on the issue of public comments on closed session items, the Attorney General’s Brown Act Booklet states it would prudent to do so”*.
- F19. In the regular Board Meeting of May 15, 2014, one director cautioned the board; *“to remain free of conflicts of interest and then discussed the same Director’s endeavor of forming a 501 (c) (3) entity entitled Golden Hills Community Center.”* Earlier, on May 1, 2014, the same director had a meeting with a “prominent businessman and resident along with two other residents in hopes of building interest in the community center on the Golden Star property. This was documented in a memo to Legal Counsel. However, information about the property involved was still being discussed in closed session and was therefore a violation of the Brown Act.
- F20. In the regular meeting of October 16, 2014, wherein the matter of the Golden Hills Community Center was on the agenda for discussion, the same director (refer to F19) stated, *“I have received a generous offer from a “prominent businessman and resident” to provide design services, and ...did not feel the need to recuse myself from other discussion concerning usage of District properties.”* Subsequently, in the same meeting, Legal Counsel provided the Board with his interpretation of the Political Reform Act relative to conflict of interest, and stated; *“Provisions of the law would mandate recusal of the director if a contract involved affecting District lands.”* Unfortunately, the Director had already pursued the Community Center design offer.
- F21. The 2015 election campaigns of the two new board members were run by the same “prominent businessman and resident”. All expenses were paid by this resident, with the exception of \$500 that each candidate contributed. One of the other directors, a realtor, has represented the same individual in the sale of at least one property.

- F22. The campaigns of the two elected Directors focused on financial irresponsibility and identified excessive salaries and staffing for the GHCS D. As collaborated by three sources, the aforementioned “prominent businessman and resident” made the verbal statement in the office on two occasions that “*after the election, all of the managers will be gone*”. Manager names were specifically identified in this pronouncement. It was reported to the Committee that this has made managers and staff feel that their jobs are in jeopardy. At the time of this report, some hourly employees are negotiating with the same union that they rejected a number of years before.
- F23. At a Special Meeting of July 23, 2015, the same “prominent businessman and resident” made the statement from the podium that the three managers’ contracts are what prevent the current board from being able to fire them. “*Approving those contracts was one of the worst decisions made by the previous board.*” The Committee can only assume that the daughter, who is a board member, was in agreement with the statement from the podium. In fact, an ex-Director informed the Committee that the daughter asked some of the GHCS D staff “*How much would it cost to cash them out?*” This resident-daughter relationship is likely impacting ongoing events.
- F24. One of the Directors, as well as one resident made the statement that an individual previously identified as a “prominent businessman and resident” has been developing close relations with some of the Board members and feels that he has control of the Board. This has been voiced by managerial sources as well. If the situation exists, all affected Board members could be relieved of their position.
- F25. The Board advised the GM that the 2015 merit pay increases that he approved for selected staff were reduced by the Board 50% and the balance put on hold until the 2016 budget is approved. Heretofore, employee merit salary increases have been entirely at the discretion of the General Manager (CSD Law §61051 {d}). The Board stated that the level of increases exceeded the adjustment for cost of living and was considered to be excessive.
- F26. A GHCS D agenda meeting is done on Tuesday, the week prior to the regular meeting. After the Board Secretary compiles the agenda, it is given to the Board President for review and approval. It is then reviewed by the District Legal Counsel for necessary changes. To comply with the requirement to make it available 72 hours prior to the CSD meeting, it would need to be posted no later than Monday PM for a Thursday meeting. The approved agenda is also given to Announced Solutions IT Services, the GHCS D webmaster, for posting on the web site. This is an involved process in a short period of time. According to interviewed sources, it does not always go as intended, meaning that the posting is late at times, most often on the website.
- F27. According to the senior managers, changes to agenized items are frequently made only a few hours prior to the meetings. This does not comply with Brown Act requirements. The practice fails to inform District members 72 hours in advance on what will be discussed and considered for vote.

- F28. Because of the problems created in not posting agenda items properly, the minimization of meeting notes in 2015, the ongoing decision to not use the video equipment and the large number of closed meeting sessions, there is the perception that the Board is not attempting to work on the transparency of its actions. The 2014-2015 Grand Jury Report mentioned the problem of “*lack of transparency*” as well.
- F29. In early 2015 the Board changed Legal Counsel, which is totally within the purview of the Board. In the February agenda (72 hours prior to meeting), the former Legal Counsel is named in the closed session agenda to speak about water rights. Yet, in the open session February minutes (72 hours later) a new Legal Counsel is named. Since there is no mention of this potential change in previous agendas or minutes, the Committee believes that this had to have been previously agreed to by the Board in some unofficial forum. It is an obvious Brown Act violation. Legal Counsel was not officially changed until the March Regular Meeting by Board Action. At least one Board member stated that the change was made for “cause”. The Committee contacted the former Legal Counsel and he stated that he was asked to re-interview for the position with GHCS D that he had held for the past 23 years. The termination appeared to the Committee to be based on retribution for negotiating the three new contracts for the senior manager positions. And, secondly, for stating in open session that a Director would probably be subject to a conflict of interest citation if that Director pursued the use of GHCS D land for a community center while a member of the Board.
- F30. There is a strong division of trust between Directors and management. Directors feel that managers are not doing their job and that they are demonstrating signs of rebellion. The management personnel, on the other hand, are seeing that the Directors want more direct control over:
- personnel decisions
 - salaries
 - operational functions
- Heretofore, the above have been management discretionary decisions. Until the operational structure is back in line, the District does not have a good operating team.
- F31. The Committee has heard comments from several sources that Golden Hills is a “bedroom community” and that people who live that style are tagged as “commuter residents.” The meaning is that they leave early in the morning, return at night and basically relax in the evening in their homes before doing it all over the next day. The inference is that these people do not have the time or energy to get involved in the issues of local government. This partially explains the relatively low attendance at the District meetings, other than a few involved citizens.

COMMENTS:

The Committee met and talked with all members of the Board of Directors and the senior management. Without exception each individual presented himself (or herself) with professionalism, intelligence, amicability and commitment to their job and to the Golden Hills community. It should be a great team but it is not. The problem is centered on self-motivated agendas of some the board members that interfere with cohesion between management and Directors. This generates distrust and a hostile work environment. An Ad Hoc committee was recently formed to address these problems. The Committee has high hopes that the Ad Hoc committee takes its job seriously and not be reluctant to have meaningful discussions with management on the issues and what to do about it. A former Director said it best in a letter to the Board last year when he said, "*Get your differences resolved before they become fodder for those who impose an agenda that would harm our community*". The Recommendations of this Grand Jury report will address corrective actions on many areas.

RECOMMENDATIONS:

- R1. Board members should be familiar with the GHCSO Directors Code of Conduct, (which mirrors CSD Law), and perform their duties accordingly. The committee recommends that a periodic review of this code be done by all Directors and officers as CSD Law is often ignored. (Findings 2, 5, 8, 9, 11, 13, 14, 15, 18, 19, 20, 25, 27, 28, 29)
- R2. Any Board member who is concerned about a '*conflict of interest*' should review the matter with the attorney for the GHCSO. If, in fact, there is a '*conflict of interest*' he/she must disclose such facts on the records of the Board and refrain from any discussion or voting thereon. (Findings 6, 19, 20)
- R3. The Committee recommends that the Board follow the correct protocol for a GHCSO property acquisition decision. As defined in CSD law:
 - (a) discuss in closed session and vote on the potential interest and reasons for a property acquisition
 - (b) present to the community for discussion and
 - (c) make the Board decision by vote in open sessionAt the same time, it is recognized that a Board decision can be made independent of community involvement in the case of urgent need for immediate action. (Finding 5)
- R4. The GM is responsible for the security of the files, equipment and building access. It is recommended that the Board members acknowledge in writing the GM's responsibility for security and request him to implement all actions necessary. (Findings 8, 9)

- R5. It is recommended that all staff members be informed by their immediate supervisors as to the proper chain of command for all work activity. Preferably, this will be a written instruction to each employee. In no case should a Director request that an employee of the District be asked to do a work assignment without the request going through the General Manager. (Finding 14)
- R6. The Committee recommends that a change in policy authored by the Board should be a written change in the District policy manual. A verbal vote by the Board without the change in writing is not considered formalized policy. (Findings 8, 9)
- R7. An absence of a policy statement by the Board President for use of the visual streaming equipment is reportedly due to lack of information that would define a best procedure for the District. The Committee recommends that the General Manager assign the task to a staff member to survey Districts that own the same or similar equipment. The objective is to compile their procedures and policy statements. From this information, it is believed that the District should write a satisfactory policy. (Findings 13, 28)
- R8. The Committee recommends that the District complete its financial evaluation of the GHSC, including:
(a) a finalized Provost and Prichard engineering study
(b) a professional independent cost analysis of all options
(c) discussions with the City of Tehachapi on the Forced Main option
These steps should be done before any final commitment for acquisition. The Committee reminds the District that the constituents utilizing the Sewer Company represent less than 10% of the Golden Hills community. This recommendation does not preclude the issuance of a non-binding Letter of Intent by the GHCS D to reflect its interest in pursuing purchase of the company. (Findings 3, 4)
- R9. Any individual who feels that he/she is being subjected to a hostile work environment, or who is a witness to such, should file a formal complaint according to the Grievance Procedures outlined in the Golden Hills District Handbook, pages 20-21. (Findings 8, 9, 12, 14, 15, 22, 23, 25)
- R10. It is required that the 72 hour Brown Act rule for posting of agendas be followed. It may require that the Agenda meeting be moved up one day to allow sufficient time. (Findings 26, 27)
- R11. It is recommended that issues such as writing of personnel policy should not be taken up by the Board over a period of months without sufficient professional knowledge for input. In this case, an external source should be consulted. (Findings 11, 12)

- R12. To facilitate community participation, the Committee recommends that the Board should make every effort to implement the installed video streaming equipment. Constituents would then have the option of viewing those sessions at home. Evening meetings held in the Board room are not convenient for those who have commuted back to Golden Hills. Also, those over 50 years old (almost 40% of the Golden Hills population) often find that they have a night vision problem and do not want to drive to attend an evening meeting. (Finding 31)
- R13. The Committee recommends that the District place the 2015-2016 Grand Jury Report on the GHCSO website and on the Golden Hills Community Services building. It is suggested that each resident of Golden Hills take time to read the report and to participate actively in their community. The governing body of the District is there to serve the community. Each member of the Board must act responsibly and according to established law to serve the community. Residents are encouraged to attend the regular and special meetings and speak up if they are not getting the full information in the agenda package that they deserve. The Grand Jury makes its recommendations to assist the community in defining problems that exist. However, it is up to the community to demand that the Board and management staff address the issues. (Finding 31)

NOTES:

- The Golden Hills Community Service District should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**



21415 Reeves Street
P.O. Box 637
Tehachapi, CA 93581

(661) 822 3064 Tel.
(661) 822 8284 Fax
www.ghcsd.com

April 25, 2016

Honorable John S. Somers, Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue
Bakersfield, CA 93301

Re: 2015-2016 Grand Jury Final Report

Dear Judge Somers:

Golden Hills Community Services District submits the following responses to the subject report of the Kern County Grand Jury pursuant to Penal Code section 933.05.

I. **FINDINGS**

FINDING NO. 1:

A trash collection initiative in 2013 and subsequent recall attempt split the GHCSD and the community. In 2013 the District attempted to assume control over solid waste disposal in Golden Hills. Benz Sanitation already had a contract with Kern County for solid waste disposal, but not with the District. Benz declined to bid on the Request for Proposal issued by GHCSD. They then went to the Local Agency Formation Commission (LAFCo) to review GHCSD power over solid waste disposal as either a latent or active power. LAFCo supported GHCSD after extensive documentation was provided. This decision started a recall election against the entire District Board of Directors which was defeated by lack of signature support. On the surface, this appears minor in nature. In fact, the Board and the Management group were in 100% agreement that the competitive bidding process be done. However all of the parties interviewed in this investigation point to this as the beginning of the turmoil between factions in the community. One opposing faction was led by a prominent businessman and resident of Golden Hills who has long term ties with Benz Sanitation.

RESPONSE TO FINDING NO. 1:

The District disagrees partially with this finding. At least one Board member provided no input as to "all of the parties interviewed in this investigation point to this as the beginning of the turmoil between factions in the community. This finding states "all of the parties interviewed," which is an incorrect statement because at least one interviewee denies making that statement.

FINDING NO. 2:

Through the use of standing committees, made up of two board members, the Board has taken control of operational aspects that are typically performed by staff. For example, a meeting was initiated by a Board member with the City of Tehachapi to ask for financial and/or technical information on the Forced Main option (pressurized feed line) for tie in of GHSC to the Tehachapi water treatment facility. The response letter from Tehachapi stated that this is a matter for discussion between Golden Hills management and the City of Tehachapi.

RESPONSE TO FINDING NO. 2:

The District disagrees partially with this finding. The Board has requested several meetings with the city of Tehachapi hoping to obtain information to better understand the Force Main option and to not "guess" the financial obligations to the District that were included in the AECOM and Provost & Pritchard reports. The last meeting included the General Manager.

FINDING NO. 3:

The proposed purchase of the Golden Hills Sewer Company has been studied in three separate reports. All studies show financial shortcomings with the operation and a high level of capital improvement requirements. The GHSCSD Financial Committee reportedly revised the financials for GHSC to reflect lower costs and potential higher revenues. The managers are not in agreement with the modified numbers. Issuance of the final Provost and Pritchard report awaits District finalization of the financial projections. The District managers are opposing the purchase of the GHSC based on the initial engineering studies which they believe to be correct. The majority of the board members have stated that they are in favor of the purchase for reason of the water effluent feeding into Tom Sawyer Lake and for overall GHSCSD control of the company. A Letter of Intent to purchase the GHSC has been approved to be sent. The Committee confirmed in numerous interviews that the amount of water feeding the lake fails to meet or exceed the evaporation rate in the warmer months.

RESPONSE TO FINDING NO. 3:

The District disagrees partially with this finding. The reports indicating the financial shortcomings were incorrect initially and are now severely outdated. The current status of the GHSC plant is that the plant has no equipment that needs to be replaced. The finance committee did not "revise" the financial numbers from GHSC but used them as a basis for an estimated budget forecast. During the April 1, 2015 Board meeting, the finance committee was tasked to review the GHSC five-year budget and ensure that the forecasted numbers were sustainable for a government agency.

This is only a recommendation to the Board for consideration. The letter of intent applies to all options.

FINDING NO. 4:

A number of documents on the proposed sewer company acquisition are available on the GHCS D website under Document/Wastewater. Within these documents is an addition to the existing tables from the GHCS D Financial Committee. The 2ND draft includes a letter from the GHCS D Financial Committee which states: "The GHCS D Business Manager ensured that the salaries and operations cost estimates were vetted to the level of a public agency standard". In an interview, the business manager adamantly denied identification with the numbers and instructed the Board President she could not support the numbers that the Financial Committee presented. To do so would potentially jeopardize her Certified Public Accountant license. The numbers published by the GHCS D Financial Committee were in line with the financial numbers published by the GHSC. On the other hand, the financials are in conflict with the numbers presented by AECOM and Provost and Prichard. The main points of disagreement were the costs of operations, administration and reclamation. District management believes that the financial numbers from the AECOM and Provost and Prichard professional consultants reflect full costing of operations and administrative costs while the GHSC and GHCS D Financial Committee reports do not.

RESPONSE TO FINDING NO. 4:

The District disagrees partially with this finding. The Finance Committee was tasked to use the actual expenditures provided and provide an estimated five-year budget with regards to a public agency without adding inflation or the use of estimated values included in the AECOM and Provost & Pritchard reports. The Business Manager was misquoted in that she "vetted" the financials. She only participated in the discussions and ensured that proper inflation calculations and salaries included the correct costs for benefits additions for a state employee were used. Also included were the Operations Manager and over half the discussions included the General Manager. They also ensured that correct costs were used for operational expenses without the required engineering inflation factors used by AECOM and Provost & Pritchard.

FINDING NO. 5:

Acquisitions of the Tehachapi-Woodford property and the Golden Star and Moon properties in 2014 were negotiated by the General Manager and the President of the Board. These actions were subsequently voted on in closed session and announced in open session. This is simply not done using lawful CSD defined process.

RESPONSE TO FINDING NO. 5:

The District partially disagrees with this finding. The Board directed the negotiations of the properties. This was a lawful CSD process.

FINDING NO. 6:

In a recent development, one of the Directors made a motion to the Board to subdivide the Moon Drive property into sixteen one half acre parcels. The current minimum lot size is 2-1/2 acres in order to support a septic tank system on each property. If the lot sizes are 1/2 acre (approximately), each parcel would be required to hook up to the sewer company. Sub-division for sixteen additional sewer hook-ups is in itself, a financial incentive for the District to favor ownership of the Sewer Company. The sewer line hook up has a current fee of \$3600, or \$57,600 for the sixteen lots. The water meter capacity fee is \$13,661 for each lot, or a total of \$218,576. Given the financial implications, it may be a conflict of interest for the Director, who made the motion, to act as the realtor representing the sale of these properties.

RESPONSE TO FINDING NO. 6:

The District disagrees with sentences 1-5 in that there was never such a motion to subdivide the Moon Drive property. The District agrees that no Board member should be a realtor involved with the sales of any District property.

FINDING NO. 7:

The District reportedly purchased the Golden Star and Moon Drive properties for water rights. They originally had no intention for developing the two properties, other than offer a location for a Kern County fire station on the Golden Star property. In the Greater Tehachapi Area Specific and Community Plan, dated December 2010, any development of land under 2.5 acres is subject to the requirement of a public sewer system. Any request for a sewer exception must go to the Kern County Engineering, Surveying, and Permit Services. If either of these two properties were to be developed they would have to use the existing GHSC system. The development costs would be extremely high. This would result in major sanitation construction on Kern County roads to get to the GHSC. One consideration would be a bond ballot initiative that would cost the entire community of Golden Hills. However, if the District purchases the GHSC, grant monies could be possible.

RESPONSE TO FINDING NO. 7:

The District disagrees partially with this finding. There are no current plans to develop these properties.

FINDING NO. 8:

In open session of the Special Board Meeting of January 28, 2015, members of the Board criticized the General Manager about changing the entry code on the door to the staff office area. This disallowed unrestricted entry to Board members. Members of the Board wanted unrestrained entry to the staff offices and files. Management said "No". The Board subsequently voted to direct the General Manager to give the Board the code for the office area. The District Handbook for Golden Hills staff states that the General Manager is responsible for all the staff employees in regard to all handbook policies. He also has the obligation and authority for ensuring these policies are

followed along with all issues associated with the Privacy Act. If this policy is violated, the General Manager is expected to remediate the action and issue any disciplinary action to the employee. The Board of Directors having the same code and potential accessibility twenty-four hours a day, seven days a week, compromises the ability of the General Manager to comply with his duty. The General Manager has no power over the Board if a violation occurs. Conversely, not having the codes allow a level of protection for the Board if a violation were to occur.

RESPONSE TO FINDING NO. 8:

The District disagrees partially with this finding. The facts presented in this Finding are not in agreement with the facts as presented in the February 19, 2015 minutes: "That the Board members establish a policy that Board members immediately be provided independent access to entrances such as the GHCS D door (keypad code) from the lobby to the business offices, gate access and backdoor access during normal business hours."

FINDING NO. 9:

On March 25, 2015, the President of the Board requested the District's Password to the CalPERS account from the General Manager and was denied. At approximately the same time the request was also made by the Board President and Vice President to the Human Resources Manager and was again denied access. The Board President and Vice President are elected officials and should not have access to these types of accounts because of the Privacy Act. CalPERS is very explicit about Privacy Act violations.

RESPONSE TO FINDING NO. 9:

The District agrees that no Board member should have access to the CALPers system. No Board member was ever given access.

FINDING NO. 10:

Starting in January 2015, the GHCS D has minimized the meeting minutes to the extent that no substantial substance has been explained on the topic issues. It has been announced by the Board that any member wishing a full description of a meeting can obtain it by requesting a recorded disc (at a fee).

RESPONSE TO FINDING NO. 10:

The District partially disagrees with this finding. The purpose of the format for the minutes is to ensure that no issue is taken out of context and the entire conversation is able to be heard by the public. The audio discs are provided at no charge to the public.

FINDING NO. 11:

The Committee accessed all of the Regular Board Minutes and Special Board Minutes from the GHCS D website for 2014 and 2015 (ten months). The frequency of closed meetings is excessive by Brown Act standards.

RESPONSE TO FINDING NO. 11:

The District disagrees with this finding. All items on closed session agendas are reviewed by District legal counsel and found to be acceptable topics under the Brown Act.

FINDING NO. 12:

Since December 2014, the primary topic of monthly closed session meetings is the General Manager's Performance review. Of 14 Regular Board Meetings, 11 had Closed Sessions to discuss the General Manager's Evaluation and of 16 Special Board Meetings, 6 had Closed Sessions to discuss General Manager's Evaluation. CSD law states that there should not be a closed session other than for a rare need. Personnel issues are allowed. However, continued evaluation of an employee over an extended period of time is ineffective and derisive. It can also be expected to change the work attitude of the person involved.

RESPONSE TO FINDING NO. 12:

The District disagrees with this finding. All items on closed session agendas are reviewed by District legal counsel and found to be acceptable topics under the Brown Act.

FINDING NO. 13:

Acting on the issue of lack of transparency identified by previous Grand Juries, the General Manager made the decision in late 2014 to purchase video streaming equipment for the board room. This equipment was installed February 2015, but has not been turned on for use, citing the lack of a policy directive. In the course of interviewing the Directors, it was reported to us that the purchase of the equipment ruffled the feathers of some of the Board members because it was not vetted with the Board beforehand. Yet, it is in the minutes that the purchase of the equipment was approved by the Board. The General Manager had authority to make discretionary purchases up to \$30,000 without Board approval.

RESPONSE TO FINDING NO. 13:

The District disagrees partially with this finding. The Board was in the process of evaluating governing laws concerning stored media. The stated cause of any delay is speculation. After review, the process of multi-media handling was decided, the system was turned on and the District commenced streaming Board meetings.

FINDING NO. 14:

Complaints and comments received from senior management and clerical employees evidence several problems with "workplace harassment" by the Board of Directors. This includes:

- Interference with work performance
- Intimidation
- Ridicule
- Threats

Also, management and staff personnel have reported that some of the Directors go directly to them to assign work tasks. The GHCSO Code of Conduct §§4.04 and 8.03 says that all work activity must be assigned through the GM. Staff members have stated that the current practice is highly disruptive in their performing normal work duties. The problem has been reported to the GM and to the Board but no corrective action has been taken.

RESPONSE TO FINDING NO. 14:

The District does not have sufficient information to respond to this finding because the finding does not describe any items discussed. The Board agrees that work place harassment should never be tolerated. In accordance with the Code of Conduct, no Board member should task any District staff outside of routine daily tasks they normally perform.

FINDINGS NO. 15:

The General Manager, as reported by other staff members, has been coerced into doing (or not doing) what the Board demands even though requests are non-compliant with District policy. It has been said that the main threat is job security. As one example, the GM admittedly is not involved in the process of developing the Agenda packet. He attributes this to Board exclusion and the fact that the new Board Secretary does work almost exclusively for the Board of Directors. In the past, the Board Secretary did work for senior staff as well as for the Board members.

RESPONSE TO FINDING NO. 15:

The District agrees with this finding based on a perception that may have existed at one time.

FINDING NO. 16:

In the Regular Board Meeting of November 20, 2014, some people (four identified by name) expressed their desire that the 2014 Public Employee Performance Evaluation be continued to a later date to afford additional time for review. These people were mostly related to or had friendships with the aforementioned "prominent businessman and resident". If the Board had agreed with this action, the contracts with the employees would have expired and they would have been at risk to be dismissed with 30 days' notice.

RESPONSE TO FINDING NO. 16:

The District agrees with this finding.

FINDING NO. 17:

The 2014 Board of Directors voted on new contracts for the three senior managers before the 2015 Board took office in December. The new contracts extended the severance term from 12 months to 18 months in the event that the employee was terminated (for other than cause). The vote was 3 Aye - 2 Nay and was passed. The two dissenting board members moved onto the new board along with two newly elected board members. The four members of the current Board that did not or could not vote yes to the new contracts stated to the Committee that the contract terms were essentially forced on them.

RESPONSE TO FINDING NO. 17:

The District partially disagrees with this finding. The statement: "The four members of the current Board that did not or could not vote yes to the new contracts stated to the Committee that the contract terms were essentially forced on them" is not accurate.

FINDING NO. 18:

The 2014-2015 Grand Jury Report to Golden Hills had the finding: "Directors are not following the Brown Act in failing to agendaize items discussed in closed session." The Board's response to the Report stated: "*The District does not have sufficient information to respond to this finding because the finding does not describe any items discussed by Directors in close session that were not properly described on an agenda*". In the regular meeting minutes of August 21, 2014, on reporting of "Memo to the Board" dated July 15, 2014, (that was turned over to the Legal Counsel for response) Legal Counsel responded that the author of the memo to the board had made some good points and that "*the District would (sic) to be more diligent in announcing what will be addressed in closed session. Further, although the code is silent on the issue of public comments on closed session items, the Attorney General's Brown Act Booklet states it would prudent to do so*".

RESPONSE TO FINDING NO. 18:

The District disagrees partially with this finding. The District's new legal counsel reviews all items on closed session agendas to ensure topics are acceptable under the Brown Act and posted with proper citations to the Government Code.

FINDING NO. 19:

In the regular Board Meeting of May 15, 2014, one director cautioned the board: "*to remain free of conflicts of interest and then discussed the same Director's endeavor of forming a 501 (c) (3) entity entitled Golden Hills Community Center.*" Earlier, on May 1, 2014, the same director had a meeting with a "prominent businessman and resident along with two other residents in hopes of building interest in the community center on

the Golden Star property. This was documented in a memo to Legal Counsel. However, information about the property involved was still being discussed in closed session and was therefore a violation of the Brown Act.

RESPONSE TO FINDING NO. 19:

The District disagrees with the finding. Evidence exists to dispute this finding.

FINDING NO. 20:

In the regular meeting of October 16, 2014 wherein the matter of the Golden Hills Community Center was on the agenda for discussion, the same director (refer to F19) stated, *"I have received a generous offer from a "prominent business man and resident" to provide design services, and ...did not feel the need to recuse myself from other discussion concerning usage of District properties."* Subsequently, in the same meeting, Legal Counsel provided the Board with his interpretation of the Political Reform Act relative to conflict of interest, and stated: *"Provisions of the law would mandate recusal of the director if a contract involved affecting District lands."* Unfortunately, the Director had already pursued the Community Center design offer.

RESPONSE TO FINDING NO. 20:

The District partially disagrees with this finding in that the Director never pursued the community center design offer as stated in the last sentence.

FINDING NO. 21:

The 2015 election campaigns of the two new board members were run by the same "prominent businessman and resident". All expenses were paid by this resident with the exception of \$500 that each candidate contributed. One of the other directors, a realtor, has represented the same individual in the sale of at least one property.

RESPONSE TO FINDING NO. 21:

The District partially disagrees with the second sentence, "All expenses were paid by this resident with the exception of \$500 that each candidate contributed." The Board also disagrees with the relevance of the last sentence of this finding.

FINDING NO. 22:

The campaigns of the two elected Directors focused on financial irresponsibility and identified excessive salaries and staffing for the GHCS D. As collaborated by three sources, the aforementioned "prominent businessman and resident" made the verbal statement in the office on two occasions that *"after the election, all of the managers will be gone"*. Manager names were specifically identified in this pronouncement. It was reported to the Committee that this has made managers and staff feel that their jobs are in jeopardy. At the time of this report some hourly employees are negotiating with the same union that they rejected a number of years before.

RESPONSE TO FINDING NO. 22:

The District disagrees with this finding. No Board member has ever made this statement. The Board has no knowledge of this statement being made by any Golden Hills resident outside of a Board meeting.

FINDING NO. 23:

At a Special Meeting of July 23, 2015, the same "prominent businessman and resident" made the statement from the podium that the three managers' contracts are what prevent the current board from being able to fire them. *"Approving those contracts was one of the worst decisions made by the previous board."* The Committee can only assume that the daughter, who is a board member, was in agreement with the statement from the podium. In fact an ex-Director informed the Committee that the daughter asked some of the GHCS D staff "How much would it cost to cash them out?" This resident-daughter relationship is likely impacting ongoing events.

RESPONSE TO FINDING NO. 23:

The District partially disagrees with this finding because any assumption as to the thought process of a Board member is speculative.

FINDING NO. 24:

One of the Directors, as well as one resident made the statement that an individual previously identified as a "prominent businessman and resident" has been developing close relations with some of the Board members and feels that he has control of the Board. This has been voiced by managerial sources as well. If the situation exists, all affected Board members could be relieved of their position.

RESPONSE TO FINDING NO. 24:

The District agrees that, should the situation exist, all affected Board members could be relieved of their position.

FINDING NO. 25:

The Board advised the GM that the 2015 merit pay increases that he approved for selected staff were reduced by the Board 50% and the balance put on hold until the 2016 budget is approved. Heretofore, employee merit salary increases have been entirely at the discretion of the General Manager (CSD Law §6105I{d}). The Board stated that the level of increases exceeded the adjustment for cost of living and was considered to be excessive.

RESPONSE TO FINDING NO. 25:

The District disagrees with this finding. In accordance with Resolution 99-13 paragraph 6 "The General Manager shall have the authority to hire, fire (In accordance with District Employee Policies and Procedures and including review by District Human Resources legal counsel), direct the activities, evaluate their

performance and recommend the salary levels subject to board approval." It is the responsibility of the Board of Directors to ensure that expenditures and salaries are within the District budget and are fair and equitable to the surrounding community.

FINDING NO. 26:

A GHCS D agenda meeting is done on Tuesday, the week prior to the regular meeting. After the Board Secretary compiles the agenda it is given to the Board President for review and approval.

It is then reviewed by the District Legal Counsel for necessary changes. To comply with the requirement to make it available 72 hours prior to the CSD meeting, it would need to be posted no later than Monday PM for a Thursday meeting. The approved agenda is also given to Announced Solutions IT Services, the GHCS D webmaster, for posting on the web site. This is an involved process in a short period of time. According to interviewed sources, it does not always go as intended, meaning that the posting is late at times, most often on the website.

RESPONSE TO FINDING NO. 26:

The District agrees with this finding. Steps have been taken to ensure that postings are in accordance with the Brown Act. If the Agenda was not posted 72 hours in advance the meeting was cancelled.

FINDING NO. 27:

According to the senior managers changes to agendized items are frequently made only a few hours prior to the meetings. This does not comply with Brown Act requirements. The practice fails to inform District members 72 hours in advance on what will be discussed and considered for vote.

RESPONSE TO FINDING NO. 27:

The District partially disagrees with this finding because Board agenda changes were not made frequently. Steps have been taken to ensure that postings are in accordance with the Brown Act.

FINDING NO. 28:

Because of the problems created in not posting agenda items properly, the minimization of meeting notes in 2015, the ongoing decision to not use the video equipment and the large number of closed meeting sessions, there is the perception that the Board is not attempting to work on the transparency of its actions. The 2014- 2015 Grand Jury Report mentioned the problem of "lack of transparency" as well.

RESPONSE TO FINDING NO. 28:

The District agrees with this finding. Steps have been taken to ensure that postings are in accordance with the Brown Act.

FINDING NO. 29:

In early 2015 the Board changed Legal Counsel, which is totally within the purview of the Board. In the February agenda (72 hours prior to meeting), the former Legal Counsel is named in the closed session agenda to speak about water rights. Yet, in the open session February minutes (72 hours later) a new Legal Counsel is named. Since there is no mention of this potential change in previous agendas or minutes, the Committee believes that this had to have been previously agreed to by the Board in some unofficial form. It is an obvious Brown Act violation. Legal Counsel was not officially changed until the March Regular Meeting by Board Action. At least one Board member stated that the change was made for "cause". The Committee contacted the former Legal Counsel and he stated that he was asked to re-interview for the position with GHCS D that he had held for the past 23 years. The termination appeared to the Committee to be based on retribution for negotiating the three new Contracts for the senior manager positions. And, secondly, for stating in open session that a Director would probably be subject to a conflict of interest citation if that Director pursued the use of GHCS D land for a community center while a member of the Board.

RESPONSE TO FINDING NO. 29:

The District disagrees with this finding. Legal counsel was replaced in accordance with policy.

FINDING NO. 30:

There is a strong division of trust between Directors and management. Directors feel that managers are not doing their job and that they are demonstrating signs of rebellion. The management personnel, on the other hand, are seeing that the Directors want more direct control over:

- personnel decisions
- salaries
- operational functions

Heretofore, the above have been management discretionary decisions. Until the operational structure is back in line, the District does not have a good operating team.

RESPONSE TO FINDING NO. 30:

The District agrees with this finding and is working to improve Board/Staff relations.

FINDING NO. 31:

The Committee has heard comments from several sources that Golden Hills is a "bedroom community" and that people who live that style are tagged as "commuter residents." The meaning is that they leave early in the morning, return at night and basically relax in the evening in their homes before doing it all over the next day. The inference is that these people do not have the time or energy to get involved in the issues of local government. This partially explains the relatively low attendance at the District meetings, other than a few involved citizens.

RESPONSE TO FINDING NO. 31:

The Board disagrees with this finding. There is no correlation between lifestyle and government involvement.

II. RECOMMENDATIONS

RECOMMENDATION NO. 1:

Board members should be familiar with the GHCSO Directors Code of Conduct, (which mirrors CSD Law), and perform their duties accordingly. The committee recommends that a periodic review of this code be done by all Directors and officers as CSD Law is often ignored. (Findings 2, 5, 8, 9, 11, 13, 14, 15, 18, 19, 20, 25, 27, 28, 29)

RESPONSE TO RECOMMENDATIONS NO. 1:

The recommendation has been implemented. The Board disagrees with the statement that the CSD Law is often ignored. Review of the Code of Conduct is made periodically.

RECOMMENDATION NO. 2:

Any Board member who is concerned about a 'conflict of interest' should review the matter with the attorney for the GHCSO. If, in fact, there is a 'conflict of interest' he/she must disclose such facts on the records of the Board and refrain from any discussion or voting thereon. (Findings 6, 19, 20)

RESPONSE TO RECOMMENDATIONS NO. 2:

The recommendation has been implemented.

RECOMMENDATION NO. 3:

The Committee recommends that the Board follow the correct protocol for a GHCSO property acquisition decision. As defined in CSD law:

- (a) discuss in closed session and vote on the potential interest and reasons for a property acquisition
- (b) present to the community for discussion and
- (c) make the Board decision by vote in open session

At the same time, it is recognized that a Board decision can be made independent of community involvement in the case of urgent need for immediate action. (Finding 5)

RESPONSE TO RECOMMENDATIONS NO. 3:

The recommendation has been implemented.

RECOMMENDATION NO. 4:

The GM is responsible for the security of the files, equipment and building access. It is recommended that the Board members acknowledge in writing the GM's responsibility for security and request him to implement all actions necessary. (Findings 8, 9)

RESPONSE TO RECOMMENDATIONS NO. 4:

The recommendation has been implemented. This is already covered under Resolution 99-13 and the District handbook.

RECOMMENDATION NO. 5:

It is recommended that all staff members be informed by their immediate supervisors as to the proper chain of command for all work activity. Preferably, this will be a written instruction to each employee. In no case should a Director request that an employee of the District be asked to do a work assignment without the request going through the General Manager. (Finding 14)

RESPONSE TO RECOMMENDATIONS NO. 5:

The recommendation has been implemented. This is already covered under the Board's Resolution 99-13 and the District handbook.

RECOMMENDATION NO. 6:

The Committee recommends that a change in policy authored by the Board should be a written change in the District policy manual. A verbal vote by the Board without the change in writing is not considered formalized policy. (Findings 8, 9)

RESPONSE TO RECOMMENDATIONS NO. 6:

The recommendation will be implemented when a policy adopted by the Board affects a prior resolution or other document. In some instances, a policy is adopted by minute order and set forth in the Board's meeting minutes because the topic is addressed in a District document.

RECOMMENDATION NO. 7:

An absence of a policy statement by the Board President for use of the visual streaming equipment is reportedly due to lack of information that would define a best procedure for the District. The Committee recommends that the General Manager assign the task to a staff member to survey Districts that own the same or similar equipment. The objective is to compile their procedures and policy statements. From this information, it is believed that the District should write a satisfactory policy. (Findings 13, 28)

RESPONSE TO RECOMMENDATIONS NO. 7:

The recommendation will be implemented. The Board has begun live streaming of Board meetings. The Board has a draft policy regarding streaming and will adopt a final policy within three months.

RECOMMENDATION NO. 8:

The Committee recommends that the District complete its financial evaluation of the GHSC, including:

- (a) a finalized Provost and Prichard engineering study
- (b) a professional independent cost analysis of all options
- (c) discussions with the City of Tehachapi on the Forced Main option

These steps should be done before any final commitment for acquisition. The Committee reminds the District that the constituents utilizing the Sewer Company represent less than 10% of the Golden Hills community. This recommendation does not preclude the issuance of a non-binding Letter of Intent by the GHCS D to reflect its interest in pursuing purchase of the company. (Findings 3, 4)

RESPONSE TO RECOMMENDATIONS NO. 8:

The recommendation has been implemented. A final Provost & Pritchard engineering study (including an independent cost analysis of three options) has just been completed. Discussions with the city of Tehachapi on the force main option have been attempted and occurred.

RECOMMENDATION NO. 9:

Any individual who feels that he/she is being subjected to a hostile work environment, or who is a witness to such, should file a formal complaint according to the Grievance Procedures outlined in the Golden Hills District Handbook, pages 20-21. (Findings 8, 9, 12, 14, 15, 22, 23, 25)

RESPONSE TO RECOMMENDATIONS NO. 9:

The recommendation has been implemented.

RECOMMENDATION NO. 10:

It is required that the 72 hour Brown Act rule for posting of agendas be followed. It may require that the Agenda meeting be moved up one day to allow sufficient time. (Findings 26, 27)

RESPONSE TO RECOMMENDATIONS NO. 10:

The recommendation has been implemented.

RECOMMENDATION NO. 11:

It is recommended that issues such as writing of personnel policy should not be taken up by the Board over a period of months without sufficient professional knowledge for input. In this case, an external source should be consulted. (Findings 11, 12)

RESPONSE TO RECOMMENDATIONS NO. 11:

The recommendation has been implemented.

RECOMMENDATION NO. 12:

To facilitate community participation, the Committee recommends that the Board should make every effort to implement the installed video streaming equipment. Constituents would then have the option of viewing those sessions at home. Evening meetings held in the Board room are not convenient for those who have commuted back to Golden Hills. Also, those over 50 years old (almost 40% of the Golden Hills population) often find that they have a night vision problem and do not want to drive to attend an evening meeting. (Finding 31)

RESPONSE TO RECOMMENDATIONS NO. 12:

The recommendation has been implemented.

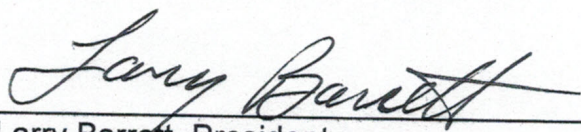
RECOMMENDATION NO. 13:

The Committee recommends that the District place the 2015-2016 Grand Jury Report on the GHCSO website and on the Golden Hills Community Services building. It is suggested that each resident of Golden Hills take time to read the report and to participate actively in their community. The governing body of the District is there to serve the community. Each member of the Board must act responsibly and according to established law to serve the community. Residents are encouraged to attend the regular and special meetings and speak up if they are not getting the full information in the agenda package that they deserve. The Grand Jury makes its recommendations to assist the community in defining problems that exist. However, it is up to the community to demand that the Board and management staff address the issues. (Finding 31)

RESPONSE TO RECOMMENDATIONS NO. 13:

The recommendation has been implemented.

Respectfully,



Larry Barrett, President

cc: Foreperson
Kern County Grand Jury
1415 Truxtun Avenue, Ste. 600
Bakersfield, CA 93301

“stonewalling as a defense”

LAMONT PUBLIC UTILITY DISTRICT

The Lamont Public Utility District (District) Board of Directors has stated “No comment” on the approximate \$210,000 missing from receipts or the revealed corruption involved on the McKee water line extension. The Board is taking the stance that the issues are under investigation and therefore they have nothing to say. Based on the investigation conducted by the 2015-2016 Kern County Grand Jury (Grand Jury), and reviewed with the Kern County District Attorney’s office, this position is simply not valid. While it is true that their insurance company is looking into the missing receipts issue, it does not preclude an open discussion of the people and procedures that were responsible. Likewise, the McKee waterline project is not something that has to be kept under wraps. In fact, the issue of the \$240,000 waterline extension was settled by the District for a total amount of \$30,000 paid by the guilty parties. Why only \$30,000? A letter of explanation to the public is appropriate.

PREFACE:

The District was established on November 3, 1943. Its mission is *“to provide safe and reliable water and sewer service in an efficient and responsible manner and at fair and reasonable prices with courteous, timely and responsive customer service”*. The District also serves as liaison with Pacific Gas and Electric for the 400 street lights in the unincorporated areas of Lamont and Weedpatch. The District operates seven potable water wells in various locations throughout the service area. To provide peak-time capacity and pressure, the District has six well facilities equipped with booster pumps and hydro pneumatic tanks and one well on a variable frequency drive. Additionally, three of the wells are equipped with onsite storage tanks with capacities ranging from 125,000 to 450,000 gallons. Each well also includes a chlorination injection system to provide disinfection.

In 1997, the District signed a ten year services contract with Southwest Water Co. (ECO Resources). On the expiration date of the contract, the District went back to being a public agency. The District kept five of the ECO Resources employees including the Office Manager (OM). All of the support equipment and supplies had to be purchased new for startup.

PURPOSE OF INQUIRY:

After receiving numerous complaints, the County Services and Special Districts Committee (Committee) of the Grand Jury conducted an investigation of the District operations pursuant to Penal Code §933.5. Also, the committee wished to determine to what extent the District had implemented the recommendations from the 2013-2014 Kern County Grand Jury report.

PROCESS:

The Committee interviewed the Board of Directors, the General Manager (GM), the new interim General Manager, and the Office Manager for the District. The Committee attended District Board meetings on January 25, 2016 and February 22, 2016. The 2013-2014 Grand Jury Report was reviewed. Additionally, the committee reviewed the Board Meeting Minutes covering the past twelve months and read the enacted 2014 policies and procedures for Cash Handling, Accounting, Purchasing and the Conflict of Interest Code Amendment.

FACTS:

- A. The District has an elected five member Board of Directors with staggered four year terms. A Board of Directors has been seated since 1943 as well as during the ten years that the services were under contract with Southwest Water Co. Directors are compensated \$100 for each Board Meeting. Two new Directors were elected in 2014.
- B. A Policy and Procedures manual, which was assembled on February 25, 2016 from various separate documents was presented to the Committee on February 25, 2016. Copies of the District job descriptions were provided on March 1, 2016.
- C. The General Manager position has gone through a number of interim hires, most lasting not more than six months. The latest GM was at the position about a year and a half and then resigned on January 31, 2016. He had been a consulting engineer for the District for two years and had no previous GM experience. The current interim GM was hired very quickly thereafter at the same \$150,000 annual salary.
- D. The Office Manager who was brought in from ECO Resources in 2007 continues in the same position. At one time, however, the person was named for a short term as the Interim General Manager. The OM currently handles financial and Human Resources (HR) functions in addition to the general office administrative responsibilities.
- E. California law requires that the District file an audit report annually (CA Code 26909b). With prior approval by the Board of Supervisors, the audit can be done biannually, or if a small district, every five years (CA Code 26909f).
- F. As a result of the forensic 2009-2013 Audit Reports, it was found that there was approximately \$210,000 missing from cash and check receipts. This form of payment is used by customers that come into the District office and give the money directly to the office clerks. At the request of the Board, the loss is being investigated by Great American Insurance Group.
- G. An extension to the McKee water line was started in 2013 and completed recently. This water line extension leads to a commercial development that is owned by one of the current Board of Directors, who is the sole beneficiary of the line extension.

- H. A study of the office was done in 2013 during which inspectors found asbestos in the building. This was reported by the 2013-2014 Kern County Grand Jury. The problem was recognized by the District in their response to the report stating that they included the repairs in the 2014-2015 budget and would be looking at alternatives to address the issue.
- I. A settlement was made with Dow Chemical/Shell Oil for \$5.5 million in 2014 for problems related to water contamination in the District. The settlement was brought forward by Dow/Shell to forestall any possible litigation costs. They had previously settled with other complainants. The \$5.5 million is ear marked for corrective actions.
- J. According to the complaints received and from observations of the Committee, the control of the Board Meetings is very poor. The Directors interrupt each other and the residents in the room tend to yell and disrupt the meeting. This problem has reportedly intensified since the election of the two new Directors. In the 1996-1997 Kern County Grand Jury Report, the recommendation was made that *“the Board needs to be trained in the proper procedure to run a meeting. This should include the Brown Act and Government Code Section 1090.”*

FINDINGS:

- F1: During the interviewing process, the Grand Jury learned that none of the Board Members were aware of the existence of a Policy and Procedures Manual for the District. In 2014, an auditor/consultant wrote policies for the District that included accounting practices, cash handling procedures and conflict of interest. During April, 2015, a new purchasing procedures policy was written by the GM and approved by the Board. A revised travel policy is currently under review. The “Assorted Lamont PUD Policies”, dated February 25, 2016 was distributed by the GM to all Board Members and managerial staff.
- F2: The Committee has been informed that the Board is typically split 3 to 2 on many issues. The division is between the two new members and the three incumbent Directors. There is reported to be strong animosity between the two groups. It is most unfortunate that one of the new Directors has used his vote at times to say *“Whatever he said”*. The Committee’s observation is that this represents disrespect for the position and is a disservice to the community.
- F3: The problem with disruptions and verbal threats during the Board Meetings has been reported to have started with the seating of two new Directors in 2014. One of the new Directors has a contingent of friends and family that attend the monthly Board Meeting. The disruptions come from this group, particularly when the subject of the McKee waterline extension is brought up. The other new Director has also hurled offensive names and accusations against the three incumbent Directors during the meeting. The issue of the \$210,000 missing receipts has been raised at times during meetings to deflect attention away from the McKee waterline extension.

- F4: During the last election for Lamont PUD Board of Directors in 2014, there was a 5% turnout of voters. A lack of voter participation made it relatively easy for individuals to place themselves on the ballot and, with little effort, get elected. A 5% turnout is not representative of the District population.
- F5: The explanation most often given for the departure of the General Managers over the past ten years is that they could not get along with one or more of the Directors.
- F6: The Office Manager/Financial Manager lacks a degree and certification in accounting. She has received strong negative comments about this from at least one of the Directors. When asked by the Committee about any accounting training that she has taken during the past ten years, she admitted that she has not taken any. As stated in the District Accounting Policies and Procedures Manual, the Office Manager and the GM formulate finance and accounting policies and review operations and procedures. Also, the OM oversees the District's budget, payroll, accounts payable, collections and accounts receivable, and the accounting system.
- F7: There was a period of three years from 2010 to 2013 that an Audit Report was not filed by the District. There were no prior arrangements with the Auditors office for other than an annual report. A forensic audit was performed in 2014 to update the District accounting procedures and do the Audit Report for the missing three years. They are now up to date with the filing requirements.
- F8: On the subject of the missing \$210,000 receipts, an element of the 2014 investigation was that the safe door was left open daily for the preceding four years. The loss equates to an average of over \$1,000 per week. It is hardly an amount that would slip through the system without being noticed by the manager responsible. Not knowing the specific cash handling procedures during this time, it has not been possible to pin the responsibility on any specific individual(s). However, it may be significant that the period of the lost cash and check funds more or less coincided with the three years of no audit reports being filed. The Committee, based on this finding, questions that this was coincidental.
- F9: Nothing has been done to mitigate the asbestos problem in the office building. It is apparently not a financial issue as there is about \$3 million in cash reserves and have been for at least the past three years. It must be understood by the Board that asbestos is a severe health hazard to those exposed.
- F10: The Grand Jury feels that the 2013 McKee waterline extension was a product of corruption. The General Manager, at the time, advised the Board that repairs were needed to the pumps and waterline and that the work would be done in house. Given the spending approval, he then contracted the work out to RW Wayne to extend the line to his brother's property, as the sole beneficiary. Three misconducts, defining malfeasance, were committed:

1. The GM lied to the Board about the purpose of the project.
2. The GM failed to get three competitive bids for the work and selected a contractor of his choice.
3. The GM failed to get a “will serve” letter from the District. He did obtain an unofficial “will serve” letter from the OM and used it for this purpose.

The McKee waterline issue was eventually settled with the offending GM and with RW Wayne Co. The GM was terminated and fined \$15,000. RW Wayne Co. was also fined \$15,000 and they subsequently filed for bankruptcy. The settlement was done on advice from the Lamont PUD legal counsel. The Board agreed to the terms based on the financial numbers involved. It would cost \$80,000 to correct and finish the project, or \$60,000 to pull the pipes out. They were also told that the waterline extension would improve the quality of the water to other receivers.

- F11: The water to the commercial property on the McKee waterline extension has still not been turned on. Fees of \$56,000 have recently been paid by the owner of the property. The owner, however, has refused to pay interest charges for the three years that fees had not been paid. This is under litigation review.
- F12: For a period of 18 months, RW Wayne Co. invoices were being submitted and paid for the work performed on the McKee waterline extension. None of the management or the Board questioned the payments during that time.
- F13: Board Members have said to the Committee that they prefer to not appoint Ad Hoc committees to address District issues. It is reportedly a lack of trust in other members and a fear that one faction or the other would have control of information. This has hampered the development of studied evaluation prior to taking a Board vote.
- F14: There are employees that have reached their maximum pay within the structure of the District salary matrix. Also, salaried positions, such as the OM, receive substantial overtime pay. In 2013, for example, the OM was paid \$32,674 overtime. The budgeted overtime amount for 2015-2016 for the OM is \$8,094. Exempt salaried employees are not entitled to overtime pay. The Fair Labor Standards Act recognizes salaried executive, administrative and professional employees as exempt.
- F15: A proposal was made by the GM in September, 2015 that the District hire a new employee to perform accounting and manage the Human Resources function. This individual would be required to have an accounting degree and at least four years experience in accounting and HR. The pay would be roughly equivalent to the current salary range of the OM. Comments were made by a few Board Members that the District could not afford the cost. The GM stated that the money and audit problems that they had incurred over the past five years would have been mostly avoided having this person. The Board defeated the proposal 3-2.

F16: The interim GM has been instructed by the Board to place his primary focus on the recruitment and hiring of a new General Manager to be completed within a timeframe of four to five months. He informed the Board that he was qualified and willing to do this. However, he reported, the time required would take away from his normal GM responsibilities and that important tasks could not be done by him during this timeframe.

Comments:

It is apparent to the Grand Jury that the District suffers from lack of a strong leadership, weak administrative management skills and from animosity between two factions of the Board. Coherence and trust between members of the Board is absolutely needed. If one or more Directors continually cause a problem, that Director(s) should be removed from the office. The first step in this process is to censure the individual. Censure should be considered when the offending Director levels personal attacks against fellow Directors, causes disruption of meetings or has undisclosed conflicts of interest. Censure is an official condemnation, reprimand or criticism leveled at a Board Member by his peers. Censure does not remove a Board Member from office or technically remove his ability to serve. It is an important means of distancing a Board from counterproductive behavior and can help to guard other Board Members from liability resulting from a rogue member's comments or actions. The process of removing a Board Member is a different matter. The District should check their bylaws, and if necessary, establish policies and procedures to cover the removal of a Director.

Recommendations:

- R1: The Grand Jury recommends that a complete and up to date Policies and Procedures manual be published by the District that defines how the Lamont PUD intends to do business. This would replace the "Assorted Lamont PUD Policies" that was assembled February 25, 2016. For structure, it is recommended that the District review manuals that have been adopted by other PUD Districts in California and then use a selected manual or sections of various manuals as a template for creating their own. (Finding F1)
- R2: A meeting should be held with all members of the Board to openly discuss the problems of lack of coherence and disrespect between members. The subject of censure of one or more members should also be considered. If it is felt necessary, and provable, a vote of censure should be made against those that are considered to be causing continual disruption resulting in ineffectiveness of the Board. (Finding F2)
- R3: The Board should exert control over the conduct of its meetings to ensure that they are conducted in an orderly fashion and without audience disruption. Members of the audience who routinely disrupt the meetings after warning to cease such disruption should be removed from the meetings by law enforcement. If that is not possible, the Board President has the right to terminate the meeting. (Finding F3)

- R4: The District needs to get the community involved in its actions and consequently in the election process. Quite often it is not possible or convenient for residents to attend evening week day meetings. It is recommended that the District install microphones on the Board dais to improve audio volume during meetings. Also, evaluate video streaming the Board Meeting in English and Spanish live on the internet. An informed community will be more involved in the District. (Finding F4)
- R5: It is recommended that the Board Members cast aside all past settled issues that they keep arguing about and start working together on a more coherent basis. Improving coherence and trust between Board Members would greatly improve the effectiveness of the Board in serving the community. When this happens, the District staff members will concurrently experience a better working environment. The Grand Jury expects that the result of a good working Board of Directors will also lead to better recruitment efforts and that the long chain of interim General Managers will cease. (Findings F2, F3)
- R6: The Grand Jury recommends that the District update job descriptions, salary range and qualifications for each salaried position. This should be one of the primary jobs of the new interim GM. If an individual does not meet the requirements for their position, the General Manager, or immediate supervisor, should discuss it with the employee. Two possibilities exist: (1) require that the employee take additional education as outlined for the job or (2) replace the employee with a qualified person. (Findings F1, F13)
- R7: Employees that have reached their current maximum salary should be subject to having their compensation frozen until a new salary matrix has been established. Based on standards established by the Fair Labor Standards Act, overtime pay for salaried management positions should cease. This will require reclassification of the managerial employees to exempt status. An exempt classification does not relieve the managers from putting in extra hours if that is required to do the job. (Finding F14)
- R8: It is obvious to the Grand Jury members that have attended the Board Meetings that individual Directors are not prepared with sufficient information and time for consideration to make decisions. Yet decisions are routinely done involving many thousands of dollars. It is in those cases that the Board should require the GM to provide sufficient time and additional information to allow extended study or that an Ad Hoc committee be appointed for a review of options. (Finding F13)
- R9: It is not required by law to remove asbestos from the office building. However, if the asbestos is not removed, it must be managed as per the requirements outlined in OSHA document 1910.1001. By law, an Asbestos Management Plan must be written for the District and followed. If this cannot be done in house, a qualified consultant should be used. (Finding F9)
- R10: The missing \$210,000 remains a hot issue with the public three years after the loss was identified by forensic auditors. The Grand Jury recommends the District continue

with its independent investigation of employees and procedures to determine the causes of the loss. Relevant questions: (1) who was responsible for ensuring that the annual audits are done? (2) Who was the person responsible for managing the clerks handling the cash and putting it into a secure place? (3) Who was the person responsible for checking bank deposit receipts against the cash received on a daily basis? The Board may wish to put the item to rest by writing a letter to the district constituents outlining its findings. (Findings F6, F7, F8)

R11: It is recommended by the Grand Jury that the District reorganize their management structure to include a full time manager qualified to perform the financial accounting and HR functions. At present, the District has nobody on staff with the experience and education to handle this. Increased salary cost to the District may be a consideration. The District needs to make a study of all operational areas to identify cost savings to accommodate the extra salaried person. The Financial/Human Resources person, for example, would eliminate the need to work the OM overtime. (Findings F12, F14, F15)

R12: The Grand Jury recommends that the Board consider all of the costs in utilizing the interim GM for the General Manager recruitment effort versus using an outside Recruiting Firm. For consideration, the interim GM salary is \$71/hour. The overall concern is the lack of attention on day to day problems and longer term planning efforts by doing the recruiting using in house resources. (Finding F16)

NOTES:

- The Lamont PUD District should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: RICHARD FRANK, FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

July 15, 2016

Memo:

To: Kern County Grand Jury

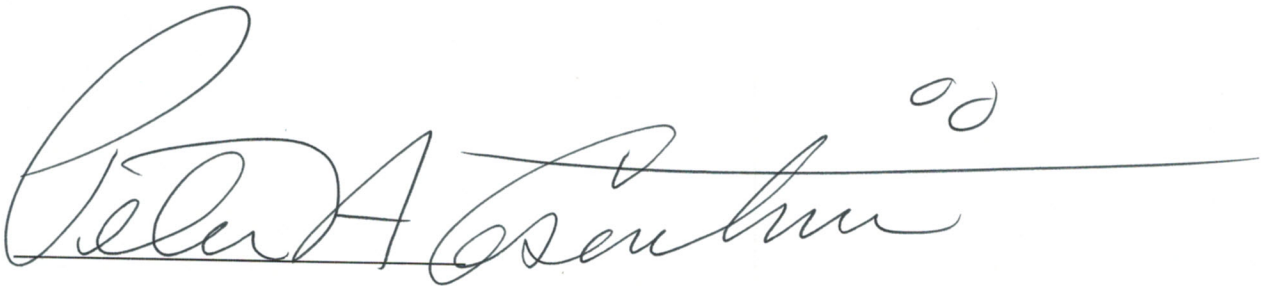
From: Peter Cosentini, Interim General Manager of the Lamont Public Utility District

Subject: District Response to the 2016 Grand Jury Report

Attached is the Lamont Public Utility District Board of Directors' response to the Kern County Grand Jury 2016 Report.

I wanted to take this opportunity to thank the Grand Jury for your extension of time to respond the Grand Jury Report.

Sincerely,

A handwritten signature in cursive script, reading "Peter A. Cosentini", with a horizontal line extending to the right. There are two small circles above the end of the signature.

Peter Cosentini

Interim General Manager

Lamont Public Utility District

The Lamont Public Utilities District (LPUD) is in receipt of 2015-2016 Civil Grand Jury Final Report (Final Report). This memorandum is pursuant to California Penal Code Section, 933 and 933.05 which requires comment on the Final Report to the Presiding Judge of the Kern County Superior Court.

The LPUD appreciates the opportunity to respond to the Findings and Recommendations of the Final Report. In addition; to our responses, the final section of this memorandum entitled "Factual Corrections and Comments" is intended to ensure that the Final Report is factually correct as to material items and clarifies certain material statements.

In accordance with California Penal Code Section 933.05 (a) the following are our responses to the Findings:

FINDINGS

F1: During the interviewing process, the Grand Jury learned that none of the Board Members were aware of the existence of a Policy and Procedures Manual for the District. In 2014, an auditor/consultant wrote policies for the District that included accounting practices, cash handling procedures and conflict of interest. During April, 2015, a new purchasing procedures policy was written by the General Manager and approved by the Board. A revised travel policy is currently under review. The "Assorted Lamont PUD Policies," dated February 25, 2016, was distributed by the General Manager to all Board Members and managerial staff.

Response: The Respondent disagrees partially with the finding.

The Board has adopted numerous policies and procedures although they were not set forth in a document entitled "Policy and Procedures Manual". The policies

adopted by the Board were reviewed and authorized by the Board who had knowledge of their existence.

F2: The Committee has been informed that the Board is typically split 3 to 2 on many issues. The division is between the two new members and the three incumbent Directors. There is reported to be strong animosity between the two groups. It is most unfortunate that one of the new Directors has used his vote at times to say "*Whatever he said*". The Committee's observation is that this represents disrespect for the position and is a disservice to the community.

Response: The Respondent disagrees partially with the finding.

A majority of the votes by the Board have been 5-0 approvals. A split can emerge on some issues.

F3: The problem with disruptions and verbal threats during the Board Meetings has been reported to have started with the seating of two new Directors in 2014. One of the new Directors has a contingent of friends and family that attend the monthly Board Meeting. The disruptions come from this group, particularly when the subject of the McKee waterline extension is brought up. The other new Director has also hurled offensive names and accusations against the three incumbent Directors during the meeting. The issue of the \$210,000.00 missing receipts has been raised at times during meetings to deflect attention away from the McKee waterline extension.

Response: The Respondent agrees with the finding.

F4: During the last election for Lamont PUD Board of Directors in 2014, there was a 5% turnout of voters. A lack of voter participation made it relatively easy for individuals to place themselves on the ballot and, with little effort, get elected. A 5% turnout is not representative of the District population.

Response: Respondent disagrees with this finding.

Based on the Kern County Elections Office web site voter turnout for November 4, 2015 election was approximately 27%.

F5: The explanation most often given for the departure of the General Managers over the past ten years is that they could not get along with one or more of the Directors.

Response: The Respondent disagrees partially with the finding.

Over approximately the past ten years, the District has had 10 General Managers either permanent, interim or contract. Of the ten General Managers only 3 were terminations or forced to resign and 7 were resignations. By this assessment it appears that there may have been more positive than negative departures then reported in Grand July Finding #5.

F6: The Office Manager/Financial Manager lacks a degree and certification in accounting. She has received strong negative comments about this from at least one of the Directors. When asked by the Committee about any accounting training that she has taken during the past ten years, she admitted that she has not taken any. As stated in the District Accounting Policies and Procedures Manual, the Office Manager and the General Manager formulate finance and accounting policies

and review operations and procedures. Also, the OM oversees the District's Budget, payroll, account payable, collections and accounts receivable, and the accounting system.

Response: The Respondent agrees with the finding.

F7: There was a period of three years from 2010 to 2013 that an Audit Report was not filed by the District. There were no prior arrangements with the Auditors office for other than an annual report. A forensic audit was performed in 2014 to update the District accounting procedures and do the Audit Report for the missing three years. They are now up to date with the filing requirements.

Response: The Respondent agrees with the finding.

F8: On the subject of the missing \$210,000.00 receipts, an element of the 2014 investigation was that the safe door was left open daily for the preceding four years. The loss equates to an average of over \$1,000.00 per week. It is hardly an amount that would slip through the system without being noticed by the manager responsible. Not knowing the specific cash handling procedures during this time, it has not been possible to pin the responsibility on any specific individual(s). However, it may be significant that the period of the lost cash and check funds more or less coincided with the three years of no audit reports being filed. The Committee, based on this finding, questions that this was coincidental.

Response: The Respondent disagrees partially with the finding.

This matter is still under investigation by the District Attorney's Office and once details related to this investigation can be released so as not to hamper the investigation the Respondent will do so.

F9: Nothing has been done to mitigate the asbestos problem in the office building. It is apparently not a financial issue as there is about \$3 million in cash reserves and have been for at least the past three years. It must be understood by the Board that asbestos is a severe health hazard to those exposed.

Response: The Respondent disagrees partially with the finding.

The Respondent is aware of the health problem and has had several presentations to the Board from the last two General Managers. The District continues to look for a positive solution. The Board agreed they have to fix this.

F10: The Grand Jury feels that the 2013 McKee waterline extension was a product of corruption. The General Manager, at the time, advised the Board that repairs were needed to the pumps and waterline and that the work would be done in house. Given the spending approval, he then contracted the work out to RW Wayne to extend the line to his brother's property, as the sole beneficiary. Three misconducts, defining malfeasance, were committed:

1. The General Manager lied to the Board about the purpose of the project.
2. The General Manager failed to get three competitive bids for the work and selected a contractor of his choice.

3. The General Manager failed to get a “will serve” letter from the District. He did obtain an unofficial “will serve” letter from the OM and used it for this purpose.

The McKee waterline issue was eventually settled with the offending General Manager and with RW Wayne Co. The General Manager was terminated and fined \$15,000.00. RW Wayne Co. was also fined \$15,000.00 and they subsequently filed for bankruptcy. The settlement was done on advice from the Lamont PUD legal counsel. The Board agreed to the terms based on the financial numbers involved. It would cost \$80,000.00 to correct and finish the project, or \$60,000.00 to pull the pipe out. They were also told that the waterline extension would improve the quality of the water to other receivers.

Response: The Respondent disagrees partially with the finding.

There are two corrections on finding 10 that the Respondent would like to make. First of all the contractor on the McKee pipeline was RS Wayne Co. Technically, RS Wayne and the former General Manager were not fined but these were payments they agreed to pay out of the litigation that followed this incident, with the Respondent.

F11: The water to the commercial property on the McKee waterline extension has still not been turned on. Fees of \$56,000.00 have recently been paid by the owner of the property. The owner, however, has refused to pay interest charges for the three years that fees had not been paid. This is under litigation review.

Response: The Respondent agrees with the finding.

F12: For a period of 18 months, RW Wayne Co. invoices were being submitted and paid for the work performed on the McKee waterline extension. None of the management or the Board questioned the payments during that time.

Response: The Respondent disagrees with the finding. When the realization of what was going on with the McKee pipeline emerged in late August or early September of 2011, the District had only paid two payments to RS Wayne totaling \$14,702.50. Payments were questioned and stopped immediately once knowledge of wrong doing came to light.

F13: Board Members have said to the Committee that they prefer to not appoint Ad Hoc committees to address District issues. It is reportedly a lack of trust in other members and a fear that one faction or the other would have control of information. This has hampered the development of studied evaluation prior to taking a Board vote.

Response: The Respondent disagrees partially with the finding.

Committees can become independent power centers independent of the elected majority. Good government and the best education of an elected body comes when Board members are given the same information at the same time. If there is a lack of understanding and more information or education is needed you must continue to bring the information forward until the Board is satisfied. This is a typically better approach rather than giving multiple presentations to the committee and then multiple presentations to the full Board.

F14: There are employees that have reached their maximum pay within the structure of the District salary mix. Also, salaried positions, such as the OM, receive substantial overtime pay. In 2013, for example, the OM was paid \$32,674.00 overtime. The budgeted overtime amount for 2015-16 for the OM is \$8,094.00. Exempt salaried employees are not entitled to overtime pay. The Fair Labor Standards Act recognizes salaried executive, administrative and professional employees as exempt.

Response: The Respondent disagrees partially with the finding.

Currently salaried positions are not receiving substantial overtime pay. The Office Manager is currently not an exempt position and is an hourly employee. In order to change an hourly employee, under the Fair Labor Standards Act to a salaried employee, you have to go through a very specific process that assesses the level of managerial activity of an individual to see if they reach the threshold that is required for an exempt salaried classification.

F15: A proposal was made by the General Manager in September, 2015 that the District hire a new employee to perform accounting and manage the Human Resources function. This individual would be required to have an accounting degree and at least four years of experience in accounting and HR. The pay would be roughly equivalent to the current salary range of the OM. Comments were made by a few Board Members that the District could not afford the cost. The General Manager stated that the money and audit problems that they had incurred over the

past five years would have been mostly avoided having this person. The Board defeated the proposal 3-2.

Response: The Respondent agrees with the finding.

The current Interim General Manager responded to the 2015/2015 annual audit findings. The need for the accounting skill set on staff was identified in 6 of the 9 findings. In response to this accounting need and findings the Interim General Manager recommended three alternative solutions for the Board's consideration. The Board publically agreed that they needed the accounting expertise on staff. The Board directed the staff to come back with the financial costs associated with the three options before they make a final decision on the issue.

F16: The interim General Manager has been instructed by the Board to place his primary focus on the recruitment and hiring of a new General Manager to be completed within a timeframe of four to five months. He informed the Board that he was qualified and willing to do this. However, he reported, the time required would take away from his normal General Manager responsibilities and that important tasks could not be done by him during this timeframe.

Response: The Respondent agrees with the finding.

In accordance with California Penal Code Section 933.05 (b), the following are our responses to the Recommendations:

RECOMMENDATIONS

R1: The Grand Jury recommends that a complete and up to date Policies and Procedures manual be published by the District that defines how the Lamont PUD intends to do

business. This would replace the “Assorted Lamont PUD Policies” that was assembled February 25, 2016. For structure, it is recommended that the District review manuals that have been adopted by other PUD Districts in California and then use a selected manual or sections of various manuals as a template for creating their own. (Finding F1)

Response: The recommendation has not yet been implemented, but will be implemented in the future.

R2: A meeting should be held with all members of the Board to openly discuss the problems of lack of coherence and disrespect between members. The subject of censure of one or more members should also be considered. If it is felt necessary, and provable, a vote of censure should be made against those that are considered to be causing continual disruption resulting in ineffectiveness of the Board. (Finding F2)

Response: The recommendation requires further analysis.

The second part of the recommendations by itself requires further analysis by the Board to see if any action is authorized or warranted.

R3: The Board should exert control over the conduct of its meetings to ensure that they are conducted in an orderly fashion and without audience disruption. Members of the audience who routinely disrupt the meetings are warning to cease such disruption should be removed from the meetings by law enforcement. If that is not possible, the Board President has the right to terminate the meeting. (Finding F3)

Response: The recommendation has been implemented.

The new Board President has discussed with staff the option of having a sworn officer present from the Kern County Sherriff's Department. This is a viable option in the mind of the staff and the President. However, it was felt that if the

meeting can be controlled by strong leadership and the gavel, then that was better than having people removed from the meeting by law enforcement. However, if strong leadership does not produce a positive meeting the President will consider the presence of law enforcement to have disruptive individuals removed from the meeting. The President will watch carefully to make sure people stay consistent with the Brown Act and talk on topic.

R4: The District needs to get the community involved in its actions and consequently in the election process. Quite often it is not possible or convenient for residents to attend evening week day meetings. It is recommended that the District install microphones on the Board dais to improve audio volume during meetings. Also, evaluate video streaming the Board Meeting in English and Spanish live on the internet. An informed community will be more involved in the District. (Finding F4)

Response: The recommendation requires further analysis.

The Board advertises their meetings on their web site and post agendas consistently on the front window of their District Office. The District often goes the extra yard and places a large folding bill board sign on their front yard lawn of the District Office that says, "Regular Board Meeting Tonight". The Board questions the wisdom of the Grand Jury's advice to get involved into the election process. This may not be the appropriate role for the elected Board. The Board will consider an improved microphone system over the current one within the next three months. The mic in front of the Counsel for the District does need repair and will be repaired within three (3) months. The Board will consider video streaming of their meetings within the next three months but cost may be a hindering factor.

R5: It is recommended that the Board Members case set aside all past settled issues that they keep arguing about and start working together on a more coherent basis. Improving coherence and trust between Board Members would greatly improve the effectiveness of the Board in serving the community. When this happens, the District staff members will concurrently experience a better working environment. The Grand Jury expects that the result of a good working Board of Directors will also lead to better recruitment efforts and that the long chain of interim General Managers will cease. (Findings F2, F3)

Response: The recommendation has not yet been implemented, but will be implemented in the future.

It is always a desired goal to have a Board that works well together and in the spirit of this goal staff would recommend to the Board that the Board consider doing some team building within the next three months. However, we want to balance that comment with the acknowledgement that the democratic process is built on free speech and having opposing sides debate the issues of the day in pursuit of the best resolutions for the community. However, this debate needs to be done within the boundaries of civility.

R6: The Grand Jury recommends that the District update job descriptions, salary range and qualifications for each salaried position. This should be one of the primary jobs of the new interim General Manager. If an individual does not meet the requirements for their position, the General Manager, or immediate supervisor, should discuss it with the employee. Two possibilities exist: (1) require that the employee take additional education as outlined for the job or (2) replace the employee with a qualified person. (Findings F1, F3)

Response: The recommendation has not yet been implemented, but will be implemented in the future.

The District has a different approach to the staffing issue and the need for an accountant skill set. The Board is in the process of looking at an enhanced staffing level in the District Office to add to existing staff and bring on an accounting skill set that was identified in the 2015/2015 audit findings and recommended by the Interim General Manager. The Interim General Manager recommended three possible alternatives to resolve the need for the accounting skill set to be implemented on staff. The recommended alternative was a full-time Finance Director. This individual would have a BA in accounting and expertise at the CPA level. The second alternative was the Accountant/HR position that the former General Manager had presented to the Board before which would try and cover the two important areas of accounting and human resources. The third alternative, which has been deemed least desirable by the Interim General Manager because it did not bring in a full time person to bring in needed checks and balances to a finance system that is currently completely run by one position. The Board has requested that the Staff bring back the costs associated to the three alternatives and place that information on a future Agenda within the next three months so the Board can make a decision on this important issue.

R7: Employees that have reached their current maximum salary should be subject to having their compensation frozen until a new salary matrix has been established. Based on standards established by the Fair Labor Standards Act,

overtime pay for salaried management positions should cease. This will require reclassification of the managerial employees to exempt status. An exempt classification does not relieve the managers from putting in extra hours if that is required to do the job. (Finding F14)

Response: The recommendation requires further analysis.

The Board will have to review all positions so there is appropriate analysis in order to address all potential legal as well as practical issues of what duties are assigned to certain positions. This process will require the Board to review current and future needs of the District it's employee job descriptions and any and all rules and regulations or laws that would apply.

R8: It is obvious to the Grand Jury members that have attended the Board Meetings that individual Directors are not prepared with sufficient information and time for consideration to make decisions. Yet decisions are routinely done involving many thousands of dollars. It is in those cases that the Board should require the General Manager to provide sufficient time and additional information to allow extended study or that an Ad Hoc committee be appointed for a review of options. (Finding F13)

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

Committees can become independent power centers independent of the elected majority. Good government and the best education of an elected body comes when Board members are given the same information at the same time. If there is

a lack of understanding and more information or education is needed you must continue to bring the information forward until the Board is satisfied. This is a typically better approach rather than giving multiple presentations to the committee and then multiple presentations to the full Board.

R9: It is not required by law to remove asbestos from the office building. However, if the asbestos is not removed, it must be managed as per the requirements outlined in OSHA document 1910.1001. By law, an Asbestos Management Plan must be written for the District and followed. If this cannot be done in house, a qualified consultant should be used. (Finding F9)

Response: The recommendation has not yet been implemented, but will be implemented in the future.

The District Board will be looking at asbestos resolution options in this next year's capital improvements portion of the 2016/2017 Budget when a new General Manager is hired. A consultant should be contracted with to create an Asbestos Management Plan within the next three months.

R10: The missing \$210,000.00 remains a hot issue with the public three years after the loss was identified by forensic auditors. The Grand Jury recommends the District continue with its independent investigation of employees and procedures to determine the causes of the loss. Relevant questions: (1) who was responsible for ensuring that the annual audits are done? (2) Who was the person responsible for managing the clerks handling the cash and putting it into a

secure place? (3) Who was the person responsible for checking bank deposit receipts against the cash received on a daily basis? The Board may wish to put the item to rest by writing a letter to the district constituents outlining its findings. (Findings F6, F7, F8)

Response: The recommendation has been implemented, with a summary regarding the implemented action.

The Board has had the matter investigated internally and has made every effort to determine who was responsible and have referred the matter to the District Attorney's Office who are currently investigating the matter with the District's full and complete cooperation.

R11: It is recommended by the Grand Jury that the District reorganize their management structure to include a full time manager qualified to perform the financial accounting and HR functions. At present, the District has nobody on staff with the experience and education to handle this. Increased salary cost to the District may be a consideration. The District needs to make a study of all operational areas to identify cost savings to accommodate the extra salaried person. The Financial/Human Resources person, for example, would eliminate the need to work the OM overtime. (Findings F12, F14, F15).

Response: The recommendation requires further analysis.

As stated earlier, the Board has already been presented with three different staffing options to deal with this very issue. The staff has been directed by the

Board to return with the costs associated with the three options for final decision of this important issue by the Board which should be within the next three months.

R12: The Grand Jury recommends that the Board consider all of the costs in utilizing the interim General Manager for the General Manager recruitment effort versus using an outside Recruiting Firm. For consideration, the interim General Manager salary is \$71/hr. The overall concern is the lack of attention on day to day problems and longer term planning efforts by doing the recruiting using in house resources. (Finding F16)

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

As of this writing June 2016, the passage of time has made this issue moot. The General Manager recruitment is still in process and an appointment of a permanent General Manager may be done soon. So it is hoped that the new General Manager position will no longer have the time restrictions of an in-house recruitment to interfere with the appropriate day to day and long term operations of the District.

FACTUAL CORRECTIONS AND COMMENTS

D. The Office Manager currently assists the General Manager with financial and human resource matters.

F. The Board has previously requested that the Kern County District Attorney's Office investigate the lost funds.

H. Mr. Larry Pennell, Interim General Manger before Mr. Nick Turner, General Manager, commissioned an architect, with Board approval. The architect developed design and floor plans for a new permanent building. This was an approach to resolve the asbestos problem and provide a more adequate building to serve the District's needs now and in the future. When the renderings and plans were presented to the Board, the Board felt the project was too expensive. Mr. Turner followed this effort with a Budget proposal that provided for asbestos removal and an add-on of floor space to enlarge the current building.

MOUNTAIN MEADOW COMMUNITY SERVICE DISTRICT

“Power tends to corrupt, and absolute power corrupts absolutely”

John Acton

PREFACE:

Special districts may be formed for limited purposes and with barely sufficient finances by well-meaning citizens who are not aware of all the aspects of law regarding public agencies. However, many resources are available to these special districts to inform them of their requirements to operate within the law. With respect to appointed, elected or hired employees of any special districts there is therefore no excuse for ignorance, abuses or defiance of the law or to disregard and disrespect the constituents that they serve.

PURPOSE OF INQUIRY:

The Special Districts and Services Committee (Committee) of the 2015-2016 Kern County Grand Jury (Grand Jury) conducted an investigation of the Mountain Meadow Community Service District (MMCS D) operations pursuant to Penal Code §933.5. The purpose of this investigation was initiated by the 2014-2015 Grand Jury when they reported, *“The Committee has not had sufficient time to fully investigate all issues that have appeared and strongly encourages that the 2015-2016 Grand Jury conduct an in-depth investigation”*.

At the time of the seating of the current Grand Jury in July 2015, the newly appointed Mountain Meadow Board of Directors had been seated and active since May 2015. They had started the process of securing all bank accounts and facility assets, the process of reconciling accounts with vendors and began to inventory all existing records, documentation and assets. Prior to May 2015, the General Manager had removed all documentation from the file cabinets and had placed the contents in cardboard boxes in an indiscriminate manner and stored the material in various locations within the MMCS D building and all of the shop equipment was missing. By June 2015, the last remaining incumbent Board member had resigned and the General Manager was terminated for cause. Therefore, the initial purpose of the current Grand Jury became the monitoring and reporting on the progress of the new Board in the reformulation of the MMCS D consistent with the recommendations of the 2014-2015 Kern County Grand Jury. However, as early as November of 2015, as the MMCS D restored order to the documentation, they found a number of anomalies with respect to companies doing business with MMCS D. Subsequently, the purpose of the Grand Jury shifted to a more active investigation as documentation packages were sent to the Grand Jury and the District Attorney’s Office from MMCS D. Additionally, MMCS D discovered that the financial records for the years, 2013, 2014 and 2015 were missing.

PROCESS:

The Committee reviewed the 2014-2015 Grand Jury report and recommendations. The Committee also reviewed the previously obtained material subpoenaed by the 2014-2015 Grand Jury, interviewed members of the newly appointed Board and toured the district. The Committee also had numerous conversations with the District Attorney's Special Investigator concerning progress in their investigation. When the MMCS D documentation package was delivered to the Committee it was reviewed and a determination made to use the material subpoenaed by the 2014-2015 Grand Jury to independently verify the documentation provided by MMCS D. Subpoenaed material included Meeting Minutes, financial records, invoices, contracts and check logs. Public information resources (internet) were accessed to determine ownership of the companies that MMCS D was doing business with, which included previous court case(s), Code Violation(s), phone numbers and mailing addresses. The Committee also reviewed the MMCS D policies and procedures and special district law pertaining to conflict of interest.

BACKGROUND:

Mountain Meadow Community Service District was established by the Boise Cascade Company on November 9, 1970 and constructed all the original roads, bridges, drop inlets, drainage canals and flow lines, etc. MMCS D became inactive in July 1985 and was reformulated and activated in July 1991 with new Board Members. MMCS D consists of 735 parcels of 2.5+ acres that are individually owned. The prime mission is to keep the drainage open and to keep the 27 miles of dirt or gravel roads travelable in winter and control dust in summer. MMCS D receives revenues from the annual parcel assessment of \$200 and any grant monies that may become available. Residents of this mountain community are responsible for all other utilities including water and septic. As such, most residents are relatively independent and prefer to "live off the grid", most having little or no interest in serving as Board Members to the MMCS D. All Board Members have been appointed for staggered terms and are duly recorded at Kern County Auditor-Controller Office; Elections Division.

FACTS:

- A. California Government Code pertaining to Special Districts; §§1090 & 87100
"Public officials cannot make or influence a governmental decision in which they have a conflict of interest. An official will have a conflict of interest if the decision has a foreseeable financial effect on their economic interests. They may not exert influence on a decision in which they have a conflict of interest unless their participation is legally required, or the official can establish that effect of the decision is indistinguishable from the effect on the general population."

- B. MMCS D Policy Handbook 2006 Conflicts of Interest;
2006.1 *"District employees have the obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. In this policy, the District is establishing the framework within which they wish to operate."*

2006.3 “An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of business dealings with the District.”

2006.3.1 “For the purposes of this policy, we define a relative as any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.”

- C. California Government Code pertaining to Special Districts; §61040 (e) “A member of the board of directors shall not be the general manager, the district treasurer, or any other compensated employee of the district, except for volunteer firefighters as provided by §53227.”
- D. Letter dated February 23, 2006 was sent to Mountain Meadow Community Service District by the Kern County Auditor-Controller Office informing them of the passage of Senate Bill 135 requiring all special districts of the requirement to have five Board of Directors. MMCS D at that time had only three Board Members and continued to have only three until action by the Board of Supervisors in 2014.
- E. The former General Manager (GM) was originally a Director by appointment in December 2006 and resigned as the President of the Board on September 17, 2013 to take the position of General Manager of MMCS D.
- F. Starting on May 15, 2014, the former GM began signing MMCS D checks by his own authority without a second signature of a Board Member. All checks recovered after that date only had his signature. This is not authorized by MMCS D Policy Handbook 3040 which requires two signatures.
- G. Starting in December 2014, the former GM refused to recognize the duly appointed Board Members by the County Supervisors and the Auditor-Controller Office.
- H. On January 14, 2015, the former GM gave a Board Member signature authority on his signature alone without approval of the remainder of the Board.
- I. On March 4, 2015, complaints were filed by the former GM against members of the newly appointed Board of Directors.
- J. On March 8, 2015, MMCS D was informed by the Kern County Auditor-Controller Office that District funds would not be released to MMCS D since the Board was not operating with a quorum.
- K. On March 10, 2015, complaints were filed by the former GM against a member of the Kern County Board of Supervisors and a member of the Kern County Counsel’s Office.

- L. On March 17, 2015, a day after a telephone conversation with County Counsel, the former GM wrote a note to himself in which he details the telephone conversation from his perspective. The note concludes with the former GM stating that he has given instruction to employees that he is closing out the business at MMCS D.
- M. The Kern County Auditor-Controller County Clerk on March 17, 2015 informed the General Manager of MMCS D the five Board of Directors contact information and a copy of this letter was sent to County Counsel.
- N. On April 10, 2015, in a renewal questionnaire from Special District Risk Management Authority for equipment inventory, the former GM signed the form that, *"All equipment marked out has been junked."* Equipment marked was a Hobart Welder, Chip Sealer, and Galion Motor Grader. There is no other documentation that indicates what was done with the equipment to preclude potential liability as required by MMCS D Policy Handbook 3085.
- O. On April 29, 2015, the former GM filed suit in United States District Court, Case #: 2:15-CV-00892-KJM-CKD against a member of the Kern County Board of Supervisors for abuse of power. On the same date, the former GM filed suit in United States District Court, Case #: 2:15-CV-00893-TLN-DAD against a staff member of County Counsel for Kern County for abuse of power. This was done without the approval of the Board of Directors.
- P. On May 20, 2015 Mountain Meadow CSD held its first meeting since November of the previous year due to lack of Board Members. This was because, in 2014, when the required number of Directors were appointed by the Board of Supervisors, the former GM refused to acknowledge their appointment. The May 20th meeting was held without one of the incumbent Board Members and the former GM. Deputies from the Kern County Sheriff's Office (KCSO), as well as staff from County Counsel and the Board of Supervisors were in attendance to ensure the meeting took place. Since the former GM and incumbent Board Member had the only keys to the facility, KCSO oversaw the removal of the locks and ensured the safety of the MMCS D building. What the new Board found upon entry was that some of the vehicles belonging to the District had been removed, office paperwork was in disarray and all the tooling in the garage area was missing. On further inspection, financial records for 2013-2015 had been removed. All the other records and documentation had been removed from the filing cabinets and were later found in multiple locations inside the facility.
- Q. On June 3, 2015 a special meeting was held by the MMCS D Board of Directors, during which the former GM was formally terminated. In another special meeting held on June 10, 2015, it was announced the incumbent board member had resigned. The board then set about to find a replacement to ensure five Board Members.

FINDINGS:

- F1. For the period between July 7, 2007 and February 17, 2015, the former GM committed MMCS D to expenditures amounting to \$302,693.51 with multiple businesses that were owned by himself or members of his family. This appears to be a violation of California Government Code §§1090 & 87100.
- F2. For the period between January 7, 2009 and July 30, 2013, while the former GM served on the Board of Directors, he was paid \$29,182 by MMCS D as a consultant and for engineering fees. This appears to be a violation of California Government Code pertaining to Special Districts 61040(e).
- F3. A former Director of the Board was paid \$3,070.00 by MMCS D for wages in 2015. This appears to be a violation of California Government Code pertaining to Special Districts 61040(e).
- F4. A review of Board Meeting minutes for MMCS D after the former GM transitioned from Board Member to General Manager indicates he was still running the meetings and Board Members were taking direction from him. He also got a concession from the Board Members that if one of them were absent, he could vote for them and did so. He unilaterally selected for appointment, swore in Board Members of his choice and subsequently submitted appointment documentation to the Kern County Elections Division.
- F5. Once a new MMCS D Board was seated on May 20, 2015, and in subsequent meetings, the Board;
- appointed a fifth Board Member after the incumbent resigned
 - conducted an audit of equipment and records
 - closed existing bank accounts and established new accounts
 - approved a forensic audit to be performed
 - started a reconciliation of accounts and paid vendors
 - hired legal counsel
 - hired part time General Manager
 - along with residents of MMCS D started roads and drainage ditch preparation for flooding from summer thunderstorms in advance of an expected El Niño winter weather

COMMENTS:

The irony of this Grand Jury report is that it was started by a complaint filed by the former General Manager approximately one year ago to confront what he perceived was Kern County government overreach against his total control over Mountain Meadow Community Service District. The facts and findings of this report show a pattern on the part of one individual to control a community and show his willful mismanagement and disregard for the constituents that he had been appointed and later hired to serve. The

former GM has also taken the new Board to court for defamation/slander and reportedly has a history of intimidation against anyone who voices an opinion against him.

RECOMMENDATIONS:

- R1. The Grand Jury recommends that a charge of malfeasance be issued by the District Attorney against the former General Manager and that he be prosecuted to the full extent of the law. (Finding F1, F2, and F4)
- R2. The Grand Jury recommends that a charge of malfeasance be issued by the District Attorney against a former Board Member for acceptance of wages during the period that he was a Board Member. (Finding F3)
- R3. The Grand Jury recommends that the current Board of Directors continue to do all things necessary, within the constraints of special district law, for the continued reconstituting of the Mountain Meadow Community Service District. (Finding F6)

NOTES:

- The Mountain Meadow Community Service District should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: RICHARD FRANK, FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

June 24, 2016

Presiding Judge

Kern County Superior Court

1415 Truxtun Ave., Suite 212

Bakersfield, CA 93301

Cc: Richard Frank, Foreperson

Kern County Grand Jury

1415 Truxtun Ave., Suite 600

Bakersfield, CA 93301

Dear Honorable Presiding Judge:

The Mountain Meadows Board of Directors wishes to thank the Grand Jury for their investigation regarding the former General Manager and former Board Member in regard to questionable conduct, illegal payments and poor oversight of the District.

This Board of Directors is in agreement with the recommendations of the Grand Jury. Additional cooperation by the current Board Members and General Manager is being offered in order for the recommendations to be followed through on.

We believe that recommendation three is being carried out and we would welcome a visit by representatives of the Grand Jury to note the operations for Mountain Meadows Community Services District.

The District posted the findings as requested, upon receipt of the report and will continue to post the findings for the next thirty to sixty days.

There are a few minor inaccuracies. Under "Purpose of Inquiry" it states: By June 2015 the last remaining incumbent Board member had resigned." One incumbent board member remains on the board as a value director. Under Item P it is stated: "The May 20th meeting was held without one of the incumbent board members and the former GM." The meeting was actually held without "2" of the former board members. As previously stated one of these board members remains

as a Director for Mountain Meadows Community Services District.

Sincerely,

R. Garber, President, T. King, Vice-President

Rozanne Garber

Thomas M. King

L. King, Director, L. Benson, Director and A. Mistretta, Director.

Laura King

Larry Benson

A. Mistretta

SOUTH KERN CEMETERY DISTRICT

PREFACE:

After receiving multiple complaints regarding lack of transparency by management, inability of residents to contact directors and management personnel, code violations in the cemetery by visitors, poor maintenance of the cemetery grounds and lack of decorum during board meetings, the 2015-2016 Kern County Grand Jury (Grand Jury) undertook an investigation of the South Kern Cemetery District (District).

PURPOSE OF INQUIRY:

The County Services and Special Districts Committee (Committee) of the Grand Jury conducted an investigation of the District operations pursuant to Penal Code §933.5. The purpose was to investigate all complaints and observe code violations.

PROCESS:

The Committee reviewed previous Grand Jury Reports on the District for reference. The Committee visited four county public cemeteries to observe best practices for grounds maintenance and signage. The Committee met with the Chairman of the South Kern Cemetery District Board of Trustees, members of the staff and attended a board meeting on August 18, 2015. The Committee also reviewed financial records along with information provided by the Kern County Auditor-Controller's office. Additionally, the Committee studied the District's Code of Operations and the results from a survey completed by the District.

BACKGROUND:

The District is located at 15543 South Vineland Road. The cemetery is on a 12 acre site in the center of the 450 square mile District. The District was formed in 1958 and had the first interment in 1960. There are now more than 6,100 total interments and activity averages about 10 interments per month. Burial cost is about \$2,300 which is consistent with most of the public cemeteries in the County. However, it was reported by management that the District operates on a very tight budget and that the low revenue stream prevents the District from staffing to provide the quality of service that other cemeteries are able to provide. Still, aeration and fertilization were started and have taken place for the second year in a row and recently professional tree services were utilized to trim, thin and shape the mature trees. Also, removal of invasive plant species and replacement with hardier efficient varieties has been accomplished. The most visible problem, as voiced by members of the District, has been weed growth covering the grave stones. It has been addressed by the liberal use of herbicide. Unfortunately, the herbicide practice has resulted in an appearance that is not much better than the untended weed problem. The area of dead grass around each grave stone is a random pattern that goes as

wide as several inches. The District has one full time salaried manager, one hourly administrator, two full-time and one part-time maintenance personnel. The position of Head Groundskeeper was eliminated during the past year with the supervisory responsibility being assumed by the senior maintenance person.

FACTS:

- A.** Several years ago a decision was made to include St. Augustine grass into the seed mix. St. Augustine shoots a horizontal stem that grows at the rate of ½ inch per 24 hours. With a standard grave stone dimension of 18 inch x 24 inch, St. Augustine shoots can cover a grave stone in less than two weeks.
- B.** As reported by the General Manager, herbicide application is done with a spray gun. Instructions are to spray entirely around the perimeter of the grave stone.
- C.** The South Kern County District Code of Operations does not address rules of decorum for the District’s public meetings.
- D.** Quoting from a UCLA profile study published in 2010, the constituents of the South Kern District are made up primarily of Latinos (76%) the majority of which (62%) have only a “rudimentary understanding of the English language”.
- E.** The available printed materials and the District’s website includes very little contact information. There is a phone number on the front page of the website. The list of Trustees on the website shows no telephone numbers and only a few email addresses, however the District expects complaints to be emailed.
- F.** There is no set written procedure or form for general complaints. The Code of Operations does not cover this subject.
- G.** The Americans with Disabilities Act (ADA) requires that a public restroom be handicapped useable and accessible. Grab bars have been installed in the District restroom. In addition, the ADA defines accessibility as having a minimum 36 inch wide door to the facility. Due to the facility’s age, its door is currently 28 inches wide.
- H.** The cemetery is open on weekends but there are no employees on site. Video cameras are installed at a few places on the cemetery grounds.



- I. The General Manager is the only management person employed by the District. He therefore represents all of the management functions for the District including business operations, business development and public relations.

FINDINGS:

F1. The erratic application of herbicide is a result of insufficient tools available to the groundskeepers. Management has not given sufficient thought to the problem. (See photo)



F2. The Committee observed that the August board meeting lacked all semblance of decorum. Board members were unable to fully participate in the meeting because the Board President monopolized the discussion. District members had an opportunity to speak if heard over the conversation and comments of other residents speaking at the same time. This finding is consistent with complaints received by district members regarding previous meetings.

F3. The General Manager’s communication style is not easily understood by the general public. Language from the General Manager’s Report for August 16, 2015 regarding complaints received is illustrative: *“Several items seem to surface that have been particularly vexing. This includes an absence of communicable redress regarding perceived contingencies. Obligational and empirical commitments continuously encapsulate regulatory obligations and make mission objectives seemingly unattainable.”*

F4. From a survey conducted by the Committee, all four of the public cemeteries visited, including South Kern, have problems to varying degrees with weekend barbeques on the grounds, loud music, public urination, alcohol consumption and vandalism. The hiring of security as a preventative measure is estimated to cost in excess of \$40,000 per year. Based on budget constraints, providing this security is not affordable. Good signage, as shown on the photo of the North Kern Cemetery, has been reported to reduce these code violations.



- F5. There is no contact information on posted signs and very little content on the District's website to facilitate contact between District constituents, Management or the Board's Trustees regarding a problem or a complaint. The Committee has heard both the General Manager and the Board Chairman make the comment, "If there is a problem just call me, otherwise, email me."
- F6. Management has stated that no complaint will be acted on unless photos and/or other visual evidence are supplied. This, as reported by the Board Chairman, is true of the Kern County Sheriff's Department as well. Unfortunately, this excludes all violations that are observed but not photographed or otherwise documented.
- F7. The restroom door on the facility measures 28 inches in width. This is not in compliance with the Americans with Disabilities Act enacted in January 1960. However, since the facility was built prior to 1960, the ADA law does not require compliance unless modifications to the building have been made since that time.
- F8. Management has found it necessary to close the restroom on weekends due to vandalism. Problems with open fires, alcohol consumption and urination on the cemetery grounds have been reported to occur almost exclusively on Saturday and Sunday. Video cameras have been effective in reducing the number of such incidents. Other than the cameras, there are no security measures on weekends. The fact that the restroom is closed on Saturday and Sunday contributes to the problem with public urination.
- F9. It has been reported and discussed in District meetings that the General Manager is not visible and tends to be inaccessible.

COMMENTS

The Committee would like to thank the Board of Trustees and management staff for their cooperation and information provided pursuant to this investigation. Overall, the Committee feels that the District is making a sincere effort to improve operations at the cemetery. It is our hope that these findings and recommendations will be taken as constructive criticism and that further improvements will be made.

RECOMMENDATIONS:

- R1. The District should provide adequate tools for the groundskeepers to contain the area of herbicide treatment around the grave stones. This could be as simple as an open wood frame that is a bit larger than the grave stone dimensions. (Finding F1)
- R2. Management should establish at least basic rules of meeting decorum. There are ten rules contained in Roberts Rules of Order. Otherwise, any generally accepted decorum rules could be used. (Finding F2)

- R3. Management should use common language in communications. The District should remember that the majority of the District constituents have only a limited understanding of English. (Finding F3)
- R4. The District should survey other cemeteries and view their practices on signage and adopt designs that appear to be better suited. (Finding F4)
- R5. The website for the District should have the telephone numbers and email addresses listed for each board member and the General Manager. This should be done immediately as it is low cost and very easy to do. (Finding F5)
- R6. Management should keep a record of all complaints including date, time, complainant, description of complaint and action taken. Some form of action should be taken on each complaint. (Finding F6)
- R7. Widen the restroom entrance door to a minimum of 36 inches to allow wheelchair access, as funds become available. Although not required by law, it is necessary to accommodate handicapped persons that visit the cemetery. (Finding F7)
- R8. The District should investigate alternative measures to provide more security on Saturday and Sunday during hours the cemetery is open. Some possibilities include:
- more cameras
 - hiring a part time employee for a few hours on weekends to protect the grounds
 - shifting work schedules so that there are employees on site during hours of weekend use
- (Finding F8)
- R9. The General Manager should take a proactive role in developing better relations with the constituents of the District. It is recommended that each day, the General Manager greet and talk to people in the cemetery. A District shirt identifying him by title would reinforce his presence. This personal attention would improve public relations. (Finding F9).

NOTES:

- The South Kern Cemetery District should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

South Kern Cemetery District

15543 South Vineland Road

Bakersfield, CA 93307

(661) 845-2540



January 30, 2016

Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, Suite 212
Bakersfield, CA 93301

Foreperson
Kern County Grand Jury
1415 Truxtun Avenue, Suite 600
Bakersfield, CA 93301

The Special Districts Committee of the 2015-16 Kern County Grand Jury (Grand Jury) issued its report on the operations and management of the South Kern Cemetery District ("District" or "Cemetery" or "Agency" depending on the context). The following is the response to the findings and recommendations contained in the report.

Background to findings Item 1 states: *The erratic application of herbicide is a result of insufficient tools available to the groundskeepers. Management has not given sufficient thought to the problem. (See photo)*

RESPONSE: The District disagrees with this finding. The report included a photograph to illustrate its findings for Item 1. The example used by the Grand Jury allegedly to depict "erratic" herbicide application is not a headstone located in the South Kern Cemetery. The picture is from another cemetery location and does not depict this Agency's markers, turf or design. The fact is that management has given sufficient thought to the application of herbicide.

Background to findings Item 2 states: *The Committee observed that the August board meeting lacked all semblance of decorum. Board members were unable to fully participate in the meeting because the Board President monopolized the discussion. District members had an opportunity to speak if heard over the conversation and comments of other residents speaking at the same time. This finding is consistent with complaints received by district members regarding previous meetings.*

RESPONSE: The District agrees that the public comments at the meeting in issue became disorderly and disruptive. There was clearly a vocal minority present at the meeting that expressed their disagreement with the care of the grounds. The District disagrees that the Chairman monopolized the discussion. The District Trustees acted appropriately by listening to the public. Had other Trustees disagreed with or objected to something said by the chairman, the Trustee would have vocalized a dissent.

Background to findings Item 3 states: The General Manager's communication style is not easily understood by the general public. Language from the General Manager's Report for August 16, 2015 regarding complaints received is illustrative: "Several items seem to surface that have been particularly vexing. This includes an absence of communicable redress regarding perceived contingencies. Obligational and empirical commitments continuously encapsulate regulatory obligations and make mission objectives seemingly unattainable."

RESPONSE: The District agrees that the excerpt in the Grand Jury report is a true and accurate section from the General Manager's Report. This narrative was a part of a written report provided to the Board of Trustees at their request. The District Manager works at the pleasure of the Board of Trustees and at no time did the Trustees express a request for clarification of the report. The District understood what the General Manager was communicating in the report. Nevertheless, the District will be more conscious of the public audience in future communications and reports.

Background to findings Item 4 states: From a survey conducted by the Committee, all four of the public cemeteries visited, including South Kern, have problems to varying degrees with weekend barbecues on the grounds, loud music, public urination, alcohol consumption and vandalism. The hiring of security as a preventative measure is estimated to cost in excess of \$40,000 per year. Based on budget constraints, providing this security is not affordable. Good signage, as shown on the photo of the North Kern Cemetery, has been reported to reduce these code violations.

RESPONSE: The District agrees that the problems cited above are challenges for each of the public cemeteries in Kern County. The District disagrees that it failed to provide the applicable signage. The model sign shown in the Grand Jury Report is not located at the North Kern Cemetery District. The photograph was likely taken at the Westside Cemetery District. The Kern County Cemetery District located in Shafter has similar signage to that shown in the Grand Jury Report, and this District already has the exact signage in place that was displayed in the photograph. This signage was placed at the Cemetery *prior* to the Grand Jury's site visit. See Photograph attached hereto to the District's Response.

Background to findings Item 5 states: There is no contact information on posted signs and very little content on the District's website to facilitate contact between District constituents, Management or the Board's Trustees regarding a problem or a complaint. The Committee has heard both the General Manager and the Board Chairman make the comment, "If there is a problem just call me, otherwise, email me."

RESPONSE: The District agrees that e-mail addresses should be listed. The Board of Trustees have budgeted for a full review, design, and implementation of a new district owned and staff controlled website.

Background to findings Item 6 states: Management has stated that no complaint will be acted on unless photos and/or other visual evidence are supplied. This, as reported by the Board

Chairman, is true of the Kern County Sheriff's Department as well. Unfortunately, this excludes all violations that are observed but not photographed or otherwise documented.

RESPONSE: The District agrees in part and disagrees in part with the finding. The public is advised to contact law enforcement as soon as they observe illegal activity first. Staff are not a substitute for affirmative law enforcement intervention. Staff are specifically advised not to physically intervene to stop illegal activity or participants in this activity but instead, are to contact the Kern County Sheriff, California Highway Patrol or the Kern County Fire Department regarding specific concerns or incidents.

Background to findings Item 7 states: The restroom door on the facility measures 28 inches in width. This is not in compliance with the Americans with Disabilities Act enacted in January 1960. However, since the facility was built prior to 1960, the ADA law does not require compliance unless modifications to the building have been made since that time.

RESPONSE: The District, County, and structural engineer are evaluating whether modifications to the doorway are readily achievable.

Background to findings Item 9 states: It has been reported and discussed in District meetings that the General Manager is not visible and tends to be inaccessible.

RESPONSE: The District disagrees with this finding. The District Manager is accessible unless his duties take him away from the work site. In fact, the manager has not taken a vacation in over two years of employment with the district.

Recommendations:

R1. The District should provide adequate tools for the groundskeepers to contain the area of herbicide treatment around the grave stones. This could be as simple as an open wood frame that is a bit larger than the grave stone dimensions.

RESPONSE: The District agrees and additional training and education has been provided to staff regarding the appropriate use of herbicides. Staff is exploring cost effective methods for applications and time with regard to chemical constraints and time efficiency.

R2. Management should establish at least basic rules of meeting decorum. There are ten rules contained in Roberts Rules of Order. Otherwise, any generally accepted decorum rules could be used. (Finding F2)

RESPONSE: The District agrees and the item has been referred to the Districts rules committee which is scheduled to take this item under consideration in consultation with legal counsel and for the purpose of exploring conformity and consistency with other special districts.

R3. Management should use common language in communications. The District should remember that the majority of the District constituents have only a limited understanding of English. (Finding F3)

RESPONSE: The District understood what the General Manager was communicating in the report. We had not received prior complaints from the community that the language used in the reports was inaccessible. The District will be more conscious of the public audience in future communications and reports.

R4. The District should survey other cemeteries and view their practices on signage and adopt designs that appear to be better suited. (Finding F4)

RESPONSE: The District agrees and site visitation of other public agency cemeteries have already taken place.

R5. The website for the District should have the telephone numbers and email addresses listed for each board member and the General Manager. This should be done immediately as it is low cost and very easy to do. (Finding F5)

RESPONSE: The District agrees and the Board of Trustees has budgeted for a full review, design, and implementation of a new district owned and staff controlled website.

R6. Management should keep a record of all complaints including date, time, complainant, description of complaint and action taken. Some form of action should be taken on each complaint. (Finding F6)

RESPONSE: The District agrees, and will be taking the appropriate measures.

R7. Widen the restroom entrance door to a minimum of 36 inches to allow wheelchair access, as funds become available. Although not required by law, it is necessary to accommodate handicapped persons that visit the cemetery. (Finding F7)

RESPONSE: The District disagrees with this recommendation. A certified structural engineer has made the determination the buildings design will not sustain a widening to 36 inches without a complete renovation of the building. The widening of the door is planned for within the recommended specifications of the engineer and is related to the maximum weight load of the structure, if deemed readily achievable.

R8. The District should investigate alternative measures to provide more security on Saturday and Sunday during hours the cemetery is open. Some possibilities include:

- *more cameras*
- *hiring a part time employee for a few hours on weekends to protect the grounds*

- *shifting work schedules so that there are employees on site during hours of weekend use (Finding F8)*

RESPONSE: The District agrees with this recommendation. Conformity with other public agency cemeteries is being reviewed and installing additional camera(s) will take place this fiscal year. Funding is an issue and there is currently not funding available to accommodate additional staffing at a time during the work week where no burials are taking place. Internment is our primary mission as an Agency. Groundskeepers are not on site to perform security functions nor are they trained or equipped for such tasks.

R9. The General Manager should take a proactive role in developing better relations with the constituents of the District. It is recommended that each day, the General Manager greet and talk to people in the cemetery. A District shirt identifying him by title would reinforce his presence. This personal attention would improve public relations. (Finding F9).

RESPONSE: The District agrees in part and disagrees in part with this recommendation. The manager is proactively involved with daily operations and can remotely monitor operations as well. The Board of Trustees feels strongly that a uniform does not make the manager. Presence is a physical action and a specific uniform would neither contribute nor detract from management's presence. Similarly, a name tag or similar device is not a substitute for personal interactions which is already the norm.

We would like to sincerely thank the Grand Jury for visiting the district as well as providing their recommendations. We will continue to aggressively improve the districts operations and appreciate the efforts staff has committed to assuring the district succeeds in its mission.

The District will continue to improve on its commitment to deliver the best possible service to the public as well as to assure transparency. Staff have been working to assure updates and improvements as we continue to evolve into a model agency for other districts to emulate.

Sincerely,



Dr. Farrell F. Neeley, Ph.D.
**Chairman of the Board of Trustees
South Kern Cemetery District**

cc: Trustees, South Kern Cemetery District

ATTACHMENT



• NO Picnics
• NO Alcohol
• NO BBQ
Allowed

FLOWER/DECORATION REMOVAL DAY

EVERY WEDNESDAY MORNING
MARCH THRU SEPTEMBER
FLOWER/DECORATIONS THAT ARE NOT IN
VASES WILL BE REMOVED AND WILL BE HELD
GATE AT BACK OF CEMETERY SHOP FOR 2 W
DISCARDED. ACCESS TO THESE WILL BE A
7:00 AM TO 3:00 PM
MONDAY THROUGH FRIDAY
CHECK OFFICE FOR SCHEDULE
OCTOBER THRU FEBRUARY & HOLLIS
WE ARE NOT RESPONSIBLE FOR STOLEN

THANK YOU...

DÍAS DE RETIRO DECORACION Y FL

CADA MIERCOLES POR LA MAÑANA
FLORES/DECORACIONES QUE NO ESTEN EN
DE LA LAPIDAS SE REMOVERAN Y SE GU
FUERA DE LA PUERTA EN LA PARTE PO
DE LA ZONA DE EL SHOP DEL CEMENTERIO
2 SEMANAS, LUEGO SERAN DESCAR
SERIA RESPONSIBLE DE
7:00 AM A 3:00 PM
LUNES A VIERNES
PARA HORARIOS CONSULTAR EN LA C
OCTUBRE A FEBRERO Y DIAS FESTI
NO SOMOS RESPONSABLES DE OBJETOS

TEHACHAPI RESOURCE CONSERVATION DISTRICT

“Most local government agencies in the Tehachapi area seldom get the attention or appreciation they deserve but the Tehachapi Resource Conservation District may be the least recognized of all. That’s cruel irony because TRCD does a lot to be recognized for and does it with practically no money”.

*Bill Mead, deceased
Publisher Tehachapi News*

PURPOSE OF INQUIRY:

Tehachapi Resource Conservation District (TRCD) is funded by property tax revenues and is therefore subject to a review by the 2015-2016 Kern County Grand Jury (Grand Jury). To the best of our knowledge, TRCD has not previously been looked at by this or any other Grand Jury.

PROCESS:

The County Services and Special Districts Committee met with the President of the Board of Directors of TRCD on April 5, 2016 at the Grand Jury offices. He explained the purpose and activities of the TRCD as well as its history. Agendas, minutes, TRCD manuals and reports were reviewed and research was done using the internet and other external sources.

BACKGROUND/FACTS:

- A. Division 9 of the California Public Resources Code defines the State’s framework for conducting the business of resource conservation within California. A central component of Division 9 is its authorization for resource conservation districts (RCDs) for the purpose of addressing local resource conservation needs. Division 9 defines the roles and responsibilities of RCDs as well as the directors that are selected to govern them.
- B. The Tehachapi Resource Conservation District, originally called the Tehachapi Soil Conservation District was formed in 1947. In 1948, TRCD requested a preliminary study of flood and erosion conditions which resulted in the first warnings of a potential water shortage in the Tehachapi area. In 1961, a Watershed Planning Project was commissioned for the TRCD. This resulted in a determination that the local water basin was being overdrafted. This finding resulted in the formation of the Tehachapi-Cummings County Water District in 1965.
- C. The five Directors on the Board are appointed. Because of limited funding, they have no permanent staff members and everyone, including Directors, works on a volunteer basis. Each TRCD committee is headed by one Director and one associate.
- D. The TRCD area comprises approximately 403 square miles which includes Tehachapi, Golden Hills, Bear Valley Springs, Cummings Valley, Sand Canyon, Hart Flat and Mountain Meadows. It does not include Stallion Springs.

- E. TRCD received \$12,937 in 2016 from property tax revenues. Otherwise, they earn a few hundred dollars from an annual plant sale. The plant sale is done by catalogue orders in partnership with Desert Mountain Resource Conservation Council.
- F. The District achieves its goals primarily through partnering with other agencies and private landowners. Through the TRCD, citizens and communities can receive valuable information on:
- efficient irrigation systems
 - water conservation
 - erosion problems
 - windbreak tree plantings
 - soils and native plants
 - backyard conservation
 - habitat for butterflies, birds and wildlife
 - and on various other conservation subjects
- G. In the recent past, TRCD through the joint efforts of FIELD (Farmworkers Institute of Education and Leadership Development) was successful in blunting the yellow star thistle menace in the area. Yellow star thistle is California's most widespread invasive plant now infecting 14 million acres. It is deadly to livestock in grazing grounds and has a major negative impact on groundwater consumption.
- H. Board Meetings are held once a month in a rented room at FIELD. The District does not have a permanent office that is approved by ADA code for meetings. They have a 10 ft. x 20 ft. storage room/office where they keep literature, records and equipment.
- I. An Agenda of the Board Meetings had not been posted from September 2015 to March 2016. Likewise, Board Meeting minutes have not been written up and posted on their web site since that same time.

FINDINGS:

- F1. According to the Board President, TRCD did not hold a meeting for a period of six months prior to March 2016 because they had only two directors. This explains the fact that an agenda had not been posted during that time. Two additional Directors have been recently appointed. However, the President of the Board has announced that he will be leaving in June 2016. There are currently no new Director candidates for the Board.
- F2. In 2015, through a Memorandum of Understanding agreement with Golden Hills Community Service District, the TRCD, along with representatives of FIELD did a landscaping and land use plan for the Golden Hills golf course. This was further assisted by a team of natural resource specialists assembled by the Natural Resources Conservation Service.
- F3. The Tehachapi RCD has no business plan. This is required in order to get Grant funding for projects. However, they have no new or existing projects on the books at this time.

- F4. Speaking on possible projects for the future, the Board President mentioned that the pine bark beetle infestation of trees in Bear Valley Springs is currently the most serious issue. However, TRCD have no staff or funds to assist with the problem. On follow-up investigation, the Grand Jury found the Kern County Fire Department has received a \$100,000 grant to remove dead trees. Also, Southern California Edison is currently removing trees in Bear Valley that are a danger to the power lines. The cost to Southern California Edison to remove an estimated 220 trees is \$65,000 or close to \$300 per tree.
- F5. The Tehachapi RCD was instrumental in 1999 in publishing the “WEED MANAGEMENT HANDBOOK” that is specific to the District area. In October 2010 they published “How to stop the Spread of Yellow Star Thistle” and through a grant from Southern California Edison, published “Erosion Control Guide for Desert Mountain Areas”.
- F6. TRCD has an annual audit performed, which over the past several years cost the District \$1,500 per year. Last year, due to the retirement of the previous auditor, a competitive bidding process was done. The audit was done by a different firm for \$5,000. A lower cost alternative has not yet been found. At \$5,000 the annual audit cost for the District is approximately 40% of the property tax revenues.
- F7. The TRCD annual audit complies with a directive outlined in a letter received by the District from the Secretary of State, Sacramento. This directive, as also stated in the publication California Public Resource Code Division 9, Chapter 4, Article 2, 9528 says that *An annual audit of the books, accounts, records, paper, money and securities shall be made as required by §26909 of the Government Code.* Unfortunately, this publication by the Department of Conservation fails to state exceptions in §26909.
- California Government Code –GOV §26909 (5)(b) states that *a Special District, by unanimous request of the governing Board, with unanimous approval of the Board of Supervisors, may replace the annual audit with an audit covering a five-year period if the annual revenues do not exceed an amount specified by the Board of Supervisors*
 - Also, in subsection §26909 (5)(c) *a Special District may replace the annual audit with a financial review in accordance with the appropriate professional standards if the District’s annual revenues do not exceed one hundred fifty thousand dollars (\$150,000)*

In other words, with proper review and approvals, it appears that TRCD is not required to do an annual audit. It should be noted that requests to the Board of Supervisors for consideration on the alternatives to an audit requirement are currently taken on a case by case basis.

COMMENTS:

As Mr. Mead wrote in his newspaper many years ago, TRCD suffers from a lack of recognition from the community. Consequently, they have had ongoing problems in recruiting new Directors to the Board and getting volunteer assistants. The District has said that much more could be done in the prevention of soil erosion, eradication of noxious weed species, improving farmland irrigation methods and for water conservation

activities if additional experts would volunteer their services. Soil engineers, bookkeepers, biologists, environmentalists, farmers, ranchers and teachers are needed.

RECOMMENDATIONS:

- R1. The Grand Jury recommends that TRCD request the Board of Supervisors solicit candidates for the two vacant seats on the Board of Directors. (Finding F1)
- R2. The Grand Jury recommends that TRCD put together a three to five year plan listing potential projects, estimated costs, target funding and the manpower skills necessary. Without a plan, it is unlikely that grant funding will be made available. (Finding F3)
- R3. Encourage more citizen involvement in TRCD activities by making a presentation at the various service organizations and local government and property owners meetings in the area. The District has much to be proud of and it is worth communicating the message. The parallel objective, of course, is to recruit more volunteers. (Finding F5)
- R4. List the dates of the TRCD meetings in the local papers. This is a common practice for many organizations in Tehachapi. (Finding F1)
- R5. The Grand Jury recommends that TRCD review California Code §26909 audit requirements and exceptions for a Special District. For follow up, it is necessary that TRCD coordinate with the County of Kern Auditor-Controller to take the appropriate actions. (Finding F6)
- R6. The Grand Jury recommends that the County of Kern Auditor-Controller's office and County Counsel define the specific revenue requirements for a Special District that will necessitate an annual audit under GOV-§26909. The financial requirements for alternative compliance to §26909 (5)(b) and (5)(c) should also be established. This is important as current available information in related publications is short of being accurate. Also, many Special Districts go to the County departments for financial and legal information. (Finding F7)

NOTES:

- The Tehachapi Resource Conservation District should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: RICHARD FRANK, FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**



Tehachapi Resource Conservation District
Conserving and Enhancing Our Natural Resources and Environment

November 10, 2016

Kern County Grand Jury
1415 Truxtun Avenue
Bakersfield, CA 93301

Dear Grand Jurors::

The Tehachapi Resource Conservation District (TRCD) has reviewed your letter dated September 7, 2016. We would like to provide a response to the facts and findings of your review as follows.

FACTS A through D

The TRCD, under Division 9 of the California Public Resources Code, is currently made up of 3 board members and one associate member with 2 board vacancies. Board members are appointed by the Kern County Board of Supervisors.

The jurisdiction area of the TRCD includes Tehachapi, Sand Canyon, Golden Hills, Mountain Meadows, Hartflat, a portion of Bear Valley Springs and a portion of Walker Basin/Caliente areas.

FACT E

The 2016 Native Plant Sale is one activity that generates some income for this agency. Additional activities are involved during our annual plant sales then as reported. (See FINDING F-5)

FACTS F through I

The current home of TRCD is 321 West C Street, in Tehachapi. It is a former Kern County Roads Department facility and is shared with Kern County Agriculture Commissioner/Weights and Measures. Meetings have been held at the FIELD office on Mill Street in Tehachapi but that organization is in preparation for a move and the facilities are no longer adequate for our needs.

Since appointment of the new board members, agendas have been posted on site at the office and on the TRCD webpage. Starting December 2016, TRCD will include notices in the local papers. Final approved minutes of the meetings are being added to the website for easy access by the public.

FINDING F-1

TRCD board members are currently screening local citizens to look for qualified candidates for the two vacant board positions with an interest, knowledge and concern for the environment. We have created a list of Director candidates and will be approaching person to determine interest and qualifications. We will then make recommendations to the Board of Supervisors for



Tehachapi Resource Conservation District

Conserving and Enhancing Our Natural Resources and Environment

appointment. The continued quest for qualified candidates for the TRCD will also be part of our annual business plan to help other board members in the future and generate interest in these positions.

FINDING F-2

TRCD has a Memorandum of Understanding (MOU) with the Golden Hills Community Services District to help them with their Strategic Plan for the Golden Hills Nature Park. The MOU has just been extended between both parties for another 5 years. TRCD will continue to work with Golden Hills and bring in assistance from the Natural Resource Conservation District, other federal and state agencies as needed, and resource advisors to help them facilitate the Strategic Plan for the park.

FINDING F-3

At this time, TRCD is working on a business plan both annually and a 3 year period to identify items that fall into both plans. We expect to have a draft plan for approval by January 2017.

FINDING F-4

Despite the lack of staff, funds or direct jurisdiction of the area under our District, TRCD has, in the last 3 months, been in contact with many Bear Valley Springs residents and initiated and facilitated the processing of grant applications for the Natural Resource Conservation District (NRCS) EQIP program to fund the removal of dead trees on residential property. TRCD has also worked with the Fire Safe Council hosting a well attended information meeting for Bear Valley residents on tree mortality and fire safety and evacuation. TRCD hosted the fall quarter meeting of the High Desert Resource Conservation Districts and included a tour of the tree mortality area of Bear Valley. On the tour, the District Conservationist for the NRCS was educated on the severity of the problem and demonstrated the need for further assistance by that agency. TRCD board members have also been in contact with the Kern County Fire Department and drafted a letter on behalf of the Board of Supervisors to the California Resource Conservation District to request a portion of the \$10 million grant that is available to combat the tree mortality problem as Kern County, especially Bear Valley Springs, is one of the six counties identified as most severely impacted.

FINDING F-5

At this time, TRCD has available to the local residents, a booklet, "Effective Maintenance for Ranch, Fire and Utility Access Roads", the Mojave Management Area – Invasive Weed Field Guide" and "Living among[st] the Oaks". The TRCD office has a variety of resource material, including books, articles and pamphlets to be shared with residents.

The TRCD has been conducting a local Native Plant Sale since the spring of 2010. In May of 2013, Associate Director Rush acted in an advisory capacity to the FIELD organization as they prepared



Tehachapi Resource Conservation District

Conserving and Enhancing Our Natural Resources and Environment

a National Fish & Wildlife Foundation Grant. In March, 2015, Ms. Rush gave a short orientation to FIELD students who were volunteers at the plant sale pickup day as part of their curriculum. Besides partnering with the Desert-Mountain RC&D, our Associate Director, Ms. Rush, spent many hours consulting with the Desert Mountain RC&D plant sale coordinator, and with their webmaster, in order to give them information about the best native plants to offer the Tehachapi area as well as water conservation and soil erosion. The sales are held at our offices at 321 West C street in Tehachapi in the spring. We promote in the local media and have provided an enhanced list and photos on our website of plants available for sale. In 2016, we expanded our plant list to include plants that we are not pre-ordered by residents to expand and promote native plants in the Tehachapi area.

FINDING F(6) AND F(7)

TRCD is working with the State organization to find a less expensive option while still remaining in line with the California Public Resources Code for audits of the RCDs. In addition, after discussion with other RCDs at the Fall Quarterly meeting held in October of 2016, it seems preferable to audit yearly as no cost savings have been demonstrated by these other RCDs by auditing less frequently. History shows that most grant requests by an RCD requires yearly audits as part of their requirements. We are expecting to go forward on researching grant opportunities for the RCD area so yearly audits may be beneficial at this time. The California RCD indicated at the quarterly meeting that they have having their counsel review this stat exemption for auditing requirements and will advise local RCDs on their findings. TRCD will be in contact with Kern County as we go forward with this requirement. We strive to spend as little as possible on this audit to maintain our annual budget monies for other purposes.

RECOMMENDATION R(1)

See FINDING F(1)

RECOMMENDATION R(2)

See FINDING F(3)

RECOMMENDATION R(3)

See Finding f(5) and

Board Members have been working closely with Golden Hills CSD and Bear Valley Springs community members on projects in our jurisdiction. Board Members will be attending the California RCD annual convention in Southern California for further education and training in November of 2016. In December, Board Members will be attending special board member training offered by Golden Hills CSD. We are planning to host a luncheon for local special districts, agencies, Community Service Districts and Property Owners Associations to introduce the new Board Members and promote our mission. The California RCD agency has its own promotion of



Tehachapi Resource Conservation District

Conserving and Enhancing Our Natural Resources and Environment

enhancing local RCDS by providing some funding to get all RCDS to a Tier 1 level. This includes email addresses, telephone access, and website information. TRCD has been working with our webmaster to update these items as well as expand on our website and include agendas, approved minutes of meetings and news. We will again be promoting our meetings in the local news starting December 2016. The NRCS office in Lancaster has recently hired a permanent District Conservationist and we anticipate we will work closely with this individual to identify local concerns and further explore how this agency can assist our local citizens in conservation efforts.

RECOMMENDATION R(5)

See FINDING F(6) AND F(7).

We will also maintain contact with the County Auditor Controller on this issue.

RECOMMENDATION R(6)

See FINDING F(6) AND F(7)

The Board members of the TRCD appreciated the opportunity to work with the Grand Jury on making this agency more responsive to the citizens and more fiscally efficient. We are taking these findings and recommendation and incorporating them into our annual and 3 year business plan. We look forward to appointing a full board and including more citizen involvement. Please contact us if you have any additional questions or comments.

Sincerely,

Jeannine Giuffre
Board President
Tehachapi Resource Conservation District

cc:
The Honorable John Somers, Presiding Judge
Kern County Superior Court
1415 Truxtun Ave, Suite 212
Bakersfield, CA 93301

Kern County Grand Jury, Foreperson
141 Truxtun Avenue, Suite 600
Bakersfield, CA 93301

District 2, Kern County Board of Supervisors
Supervisor Scrivner

WASCO RECREATION AND PARK DISTRICT

PREFACE:

The Wasco Public Recreation District (District) was established on January 29, 1948, in accordance with the provisions of §5431 through §5467 of the Public Resources Code. The District was formed for the purpose of providing recreational facilities for its residents by leasing, purchasing, constructing, equipping and maintaining parks, beaches, community buildings, recreational grounds, swimming pools, etc.

PURPOSE OF INQUIRY:

The County Services and Special Districts Committee (Committee) of the 2015-2016 Kern County Grand Jury (Grand Jury) conducted an investigation of the District operations pursuant to Penal Code §933.5. Concurrently, the committee wished to determine to what extent the District had implemented the recommendations from the Grand Jury report of 2014.

PROCESS:

The Committee conducted an interview with the District Manager on December 15, 2015 and was taken on a tour of the facilities. The Committee also reviewed the District's Personnel Manual, training certifications, meeting agendas, meeting minutes, current budget and previous audits.

BACKGROUND:

Wasco Recreation and Parks Mission Statement: *“It is the mission of the Wasco Recreation and Parks District to create recreational opportunities for growth and enhancement by developing diverse services and programs that promote citizen involvement and a strong sense of community while striving to increase the social, cultural and physical well-being of its residents and visitors.”*

On January 18, 1960, the Board of Directors resolved to reorganize the District provided in Chapter 4 of Division 5 of the Public Resources Code, commencing with §5780 and continuing through §5791. By this same resolution, the official name of the District was changed to the Wasco Recreation and Parks District.

The District's geographic area is comprised of incorporated and unincorporated territory as defined by the Wasco School District. The Recreation and Parks District is governed by a Board of Directors, three are appointed by the Mayor of Wasco and two by the Board of Supervisors of the County of Kern.

FACTS:

- A. The District facilities include an office building, a large Veterans Hall, playground, swimming pool, wading pool, an adult baseball field with grandstands and a Little League field at the Polar Ave location. The District is also responsible for five additional park locations amounting to a total of 42 acres of parks which include additional baseball, softball, soccer and skate parks.
- B. The District has been given control of the Veterans Hall, which is an approximately 65 year old building in need of renovation. However, due its large size with multiple large meeting rooms and kitchens, the facility has a great deal of potential for the District and the community. Currently one room is used for senior activities, including the serving of county supplied hot lunches. Multiple large rooms are periodically rented out to groups for weddings and community events. With exception of the one room for senior activity, most of the time the other rooms are vacant, with one being used by the Board of Directors for monthly board meetings.
- C. The District provides landscaping and maintenance for the Little League field which is owned by the District. The Little League organization is separate from the District and according to the District Manager, “is financially self-sufficient”.
- D. From a review of the past two year’s budgets, total expenses have modestly increased from \$817,678 to \$838,219, or approximately \$20,500. The revenues have increased by \$7,600. This is a small deficiency which is adequately covered by cash reserves.
- E. Total salaries, wages and benefits for the year are \$422,818. There are five full time salaried employees and one part time employee.
- F. A District Policy and Procedures Manual was published during the past year. Heretofore, there had been none.
- G. The drought has taken a heavy toll on the District. Forty seven mature trees have been lost due to the lack of water. The District is in the process of replacing the trees.
- H. The District has a good working relationship with the City of Wasco. Additional skills are supplied by the city to assist with the District needs, including grant research and writing.
- I. The District utilizes labor from the Kern County Sheriff work release program to supplement labor needs. Volunteers take part in the programs primarily as coaches and referees.

FINDINGS:

- F1. The current District Manager has been in the position for approximately 3 years. The outgoing manager did not have his contract renewed. The Board, on the other hand, has been stable. The Board President has been on the Board for 26 years and other Directors have been there for several years.
- F2. The Grand Jury feels that the District is being well run. The recreational facilities are in good to excellent condition. Improvements have been made to the pool facilities, including new restrooms. The Veterans Hall has been taken over by the District and is in disrepair due to age. The Veterans Hall is post World War II building construction and will require updates to current code when renovated. The District plans to submit an application for grant money for this project.
- F3. The Committee studied the recommendations from the previous Grand Jury report in 2014. The District's new Policy and Procedures Manual and the employee certifications were reviewed. The Committee also reviewed the written agreement with the District Manager concerning the swimming pool and concluded that the agreement is still agreeable to the District and the City of Wasco for the benefit of the community. The Committee reviewed the District's website and agreed that all of the recommendations had been addressed in some manner from the previous report.
- F4. Salary and wage costs are relatively low. The use of only one part time worker will mean that the minimum wage increase will not have a significant effect on costs.
- F5. Revenues are primarily from user fees and property taxes. The sources have been stable as oil company tax revenue is not a factor.
- F6. The District has not updated their website to reflect Board Meeting minutes since October 15, 2015.
- F7. The District has plans to improve the baseball stadium's appearance utilizing volunteer labor to clean and paint the facility.

COMMENTS:

The 2015-2016 Kern County Grand Jury would like to thank the District Manager for a tour of the facilities and for her time and patience with answering our questions regarding the operations of the District. The Grand Jury would like to acknowledge the commitment of the District Manager, District Staff and Board of Directors to the community. For such a small staff to maintain and improve 42 acres of parks is no small accomplishment; keep up the good work.

RECOMMENDATIONS:

- R1. The Grand Jury recommends that the District make a priority of restroom restoration and improvements to the Veterans Hall since the District is utilizing the facility for activities for the elderly. Any renovations to the Veterans Hall will require the restrooms meet current Americans with Disabilities Act standards. (Finding F2)
- R2. The Grand Jury recommends that the District website be updated on a monthly basis to reflect the latest Board agenda and meeting minutes. (Finding F5)

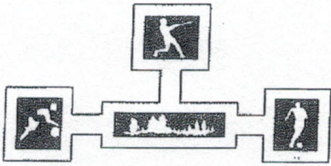
NOTES:

- The Wasco Recreation and Parks District should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**



WASCO RECREATION & PARKS

3/29 mailed
COPY

1280 POPLAR AVE. WASCO, CA 93280 TEL (661) 758-3081 FAX (661) 758-4939

March 17, 2016

Presiding Judge
Kern County Superior Court
1415 Truxtun Ave., Suite 212
Bakersfield CA, 93301

RE: Responses to the 2015-2016 Special Districts Grand Jury Report

The Wasco Recreation and Parks District, (District) has reviewed the 2015-2016 Special Districts Grand Jury Report regarding the District. A response to the Grand Jury's recommendations has been prepared by the District Manager and presented to the Board of Directors for approval and signature.

In preparing these responses, the District considered current budget restraints and projected opportunities/grants for funding.

The Board of Directors met on March 17th to review the Grand Jury's statement and to discuss and review these responses.

R1. The Grand Jury recommends that the District make a priority of restroom restoration and improvements to the Veterans Hall since the District is utilizing the facility for activities for the elderly. Any renovations to the veterans Hall will require the restrooms meet with current American with Disability Act Standards.

RESPONSE: The District recognizes that the need for renovation of the restrooms in the main halls #1 and #2 and is currently searching for grants to renovate and meet the current ADA standards. The restroom near the Senior Center has ADA restrooms and the seniors have access to those restrooms during recognized senior activities.

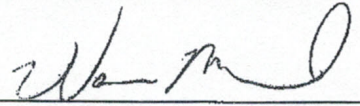
R2. The Grand Jury recommends the District the District website be updated on a monthly basis to reflect the latest Board Agenda and Meeting Minutes.

RESPONSE: The District recognizes that the current month agenda and minutes from the past month had not been updated and has assigned the duties to staff to ensure timely postings.

The District would like to thank the Special Districts Grand Jury for their professionalism, their insight and their instruction to the District.

Sincerely,

Vickie Hight, District Manager
Wasco Recreation and Parks District.


_____, Chairman, Warren McDaniel


_____, Vice Chairman, Jeff Wymer

Gilbert Garland, Member Gilbert Garland

Gary Jones, Member, Gary Jones

Rick Snow, Member, Rick Snow

CC,, Foreperson
Kern County Grand Jury Special Districts
1415 Truxtun Ave. Suite 600
Bakersfield, CA 93301

WESTSIDE RECREATION AND PARKS DISTRICT

“running on fumes with a reserve tank”

PREFACE:

The Westside Recreation and Parks District (District) was formed in 1947 under the original name of Westside County and City Park to serve approximately 407 square miles on the west side of Kern County. The offices and most of the facilities are located in Taft, CA. The District of approximately 12,000 residents (plus a prison population) is located 35 miles SW of Bakersfield in the heart of California’s oil country.

PURPOSE OF INQUIRY:

The 2015-2016 Kern County Grand Jury (Grand Jury) undertook a review of the Westside Recreation and Parks District pursuant to Penal Code §933.5. The District had not been visited by the Grand Jury since 2004.

PROCESS:

The County Services and Special Districts Committee (Committee) visited the District on December 8 and December 15, 2015 and conducted an interview with the Administration Director, the Deputy Director and the Business Services Coordinator. The Committee also took a tour of the Recreation Center, adjacent Pee Wee baseball fields and the Little League fields. The Committee has reviewed the Mission Statement, meeting agendas, meeting minutes, three year annual budgets and previous audits. A facts verification review was done with the District Administrator.

FACTS:

- A. The District has an appointed five member Board of Directors with staggered 4 year terms. Directors are not compensated.
- B. Westside Recreation and Parks have first class facilities offering many sports and activities. They have received yearly awards from the County and the State for recognition of their programs and facilities. The facilities include a new Recreation Center with a gymnasium, weight room and bowling lanes. In addition, the District has playgrounds, softball and soccer fields, an auditorium and a Senior Center. A swimming pool built in the 1930’s, and located on the Junior High school grounds, is also part of the District.

- C. The Recreation Center was built in 2011 using insurance money after the old facility burned down. The money covered 95% of the cost of the new building while sponsors covered most of the balance needed. The Recreation Center is self-supporting from the use fees that are charged.
- D. User fees for the Recreation Center and for other programs are very modest. The annual fee for the weight room/gymnasium, for example, is \$240.
- E. There are currently 14 full time positions (including vacancies) and 50-60 part time workers (varies on season). District management stated that they recognize the problem locally of providing jobs. They feel that they are contributing to the solution by having the large number of workers. Based on the 2014-2015 budget, total wages and benefits were \$1,617,350 for 12 months.
- F. Full time employees, not including the District Administrator, receive an annual wage increase based on a 6 Step program. The employees receive a 5% increase (compounded) as they progress from step to step each year. Annual performance evaluations are also done but are not used for the purpose of merit raises.
- G. Part time workers receive a 2015-2016 wage ranging from \$10.00 to \$15.87 per hour. As compared to April, 2013, wages have increased by 16% to 20%.
- H. The 2015 minimum wage in California was \$9.00 per hour. It has increased to \$10.00 per hour as of January 1, 2016. Of note, California Senate Bill 3 recently passed through the Senate by a vote of 23-15 increasing the minimum wage in 2016 to \$11.00 per hour and raising it to \$13.00 per hour in 2017. The bill has not yet been signed into law.
- I. Total expected income from taxes, facilities and programs fell from \$2,993,743 to \$1,964,735 as reported on the 2014-15 and 2015-16 budgets. The income reduction is from lower taxes. It was reported to us that this is entirely due to low oil prices and reduced oil production in the area.
- J. The 2014-2015 budget includes an expense item of \$260,000 for acquisition and improvement of Little League fields owned by Layton Melton Productions.
- K. Expenses comparing the past two budgets were lowered from \$3,349,302 to \$3,000,600. An adjustment, subtracting the \$260,000 improvement item, shows expenses increasing by 3.8%. Almost every expense item in 2015-2016 shows a year to year cost increase.
- L. The 2016 year deficit is budgeted to grow to \$1,035,878. The District Administrator stated that they have \$5,000,000 in cash reserves and that the deficits are adequately covered. According to the June 2016 meeting minutes, they feel that the tax revenue loss is a short term problem and the District is comfortable operating on a deficit for one year.

- M. Oil prices per barrel climbed to a historic high of over \$100 in mid-2014. A year later, oil prices had fallen to \$54 but the forecasters were predicting a recovery to at least \$60.
- N. As a down-sizing effort, the District is attempting to give back two properties to Kern County. This includes:
 - 1. Camp Condor: Referring to comments from the October 15 minutes: *“turning this property over to the County hasn’t been as easy or cheap as we initially thought”*. A lot of cleanup has been done. It is located in Mountain Park.
 - 2. Mountain Park Property: There is no water on the property. A tank has been purchased for \$35,000. The District is planning to request recovery of the money from the County after the property transfer has been made.

FINDINGS:

- F1. The District is doing a terrific job providing high quality facilities and recreational programs for all age groups. The recreation and parks facilities are known as the center of the community.
- F2. District salaries are high. In fact, salaries, wages and benefits represent 91.6% of the District 2015-2016 budget. This is a high end cost for a community of 12,000 residents.
- F3. The District has a strong volunteer program. Volunteers are utilized for coaching and supervising team sports and are provided training.
- F4. The 6 Step program is an automatic salary increase of 5% annually and does not recognize merit. Over six years, the program will elevate all employees on the program by 34% in salary.
- F5. The increase in the minimum wage scheduled for 2016 could elevate part time labor costs by approximately \$75,000 per year. Additional employment costs may be incurred. If Senate Bill 3 is passed into law, the increase inflates to about \$150,000 in 2016 and \$300,000 in 2017. The wages for positions that are paid more than minimum are being adjusted, starting January 1, 2016 to maintain incremental pay over the \$1.00 increase in minimum wage.
- F6. Oil prices have not recovered. A price of \$60 per barrel is said to be the breakeven level for the oil companies to get back to producing. It didn’t happen. The oil price is now \$36 per barrel (as of January 4, 2016). When Iran re-enters the market, forecasters are saying the oil prices may drop to \$20 per barrel before starting to come back. It is apparent that, unlike the District forecast, low tax revenues will not be a short term problem. The District may have to rely on their cash reserves for some years to come.

- F7. The District has not developed a contingency plan in the event that oil prices do not recover to a pre-2015 level. The higher tax revenues are needed to maintain the high level of recreational facilities and programs that are now being offered, without depleting cash reserves. Alternatively, expenses and some program fees must be significantly altered.
- F8. The \$180,000 expended for the Little League fields appeared to the Committee to be well spent. There are four fields, three of which have been upgraded and put into very good condition. The aluminum spectator stands are fairly new, purchased from grant money before the acquisition. There is a large parking lot across the street and adjacent to Franklin Field Park. Regardless of the quality of the expenditure, the Committee is concerned about the District expending this amount of money at a time when income is severely reduced.

COMMENTS:

The District must be commended for doing everything possible to serve and support the community. Recreation facilities are made available to the schools and to the community in general. Fees are modest to allow affordability to all. A total of 60 part time jobs have been created to support local employment. Yet, the issue of sustainability must be addressed. Tax revenues may not recover for several years to the levels enjoyed by the District in past years. Alternative sources of income may have to be found or expenses reduced.

RECOMMENDATIONS:

- R1. Keep up the good work! The Grand Jury believes that the Westside Recreation and Parks District has a wonderful program with great facilities. (Finding F1)
- R2. It is recommended that the District revisit the 6 Step program for annual salary adjustments. The adjustments are not based on merit evaluation and should be. Secondly, the 5% annual raise is judged to be too lucrative for the economic times. The Committee recommends that, for the immediate term, a salary freeze be put into place until oil prices recover to a breakeven level. Otherwise the District might consider substituting a cost of living adjustment until sufficient tax revenues are received. (Finding F4)
- R3. The work force of 50 to 60 part time employees may be more than is needed to do the work required. It is recommended that the District make a studied effort to reduce this work force by one job at a time. Each part time job is a cost of about \$15,000 per year based on 30 hours per week. (Finding F5)
- R4. The Grand Jury recommends that the District do a five year contingency budget based on only modest increases to the current level of revenue. If cash reserves are not sufficient to cover the deficit income for five years, changes will need to be made over time. (Finding F6)

- R5. The Grand Jury recommends that an upward adjustment be made to the recreational fees. At the current levels, the fees for example, are lower than the commercial health gyms. It is commendable that the fees are very affordable. However, the situation must be faced that the District cover expenses. If necessary, for purposes of affordability, offer a discounted fee to qualified low income residents. Residents that are covered by Medicare would continue to be covered even with a higher use fee. (Finding F7)
- R6. The Grand Jury recommends that the District communicate to the community and announce their financial situation for 2015-2016 and, very possibly for the coming 2 to 5 years. Explain that the District is operating at a \$1,000,000 budget deficit in 2016 and that cost reductions are being considered for the coming year. (Findings F5, F6 and F7)

NOTES:

- The Westside Recreation and Parks District should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**



February 22, 2016

Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, Suite 600
Bakersfield, CA 93301

Re: Responses to 2015-2016 Grand Jury Report

To the Honorable Presiding Judge:

The West Side Recreation and Park District, ("District") has reviewed the 2015-2016 Grand Jury Report regarding the District titled "running on fumes with a reserve tank." A response to the Grand Jury's recommendations was prepared by the District Administrator. In preparing these responses, the District considered factors such as the District's small size and budget and current practices.

The responses were presented to the West Side Recreation Board of Directors at a regularly noticed meeting on February 18, 2016 for final review and edits. The Board of Directors has approved the attached responses and authorized the District Administrator to file them with Kern County Superior Court.

Sincerely,

A handwritten signature in black ink that reads "Donald F. Koenig". The signature is written in a cursive style.

Donald F. Koenig
District Administrator

cc: Foreperson, Kern County Grand Jury
Board of Directors, West Side Recreation and Park District

RECOMMENDATIONS:

- R1. *Keep up the good work! The Grand Jury believes that the West Side Recreation and Park District has a wonderful program with great facilities. (Finding F1)*

The District appreciates the kind words from the Grand Jury and will continue to strive to provide quality programs and facilities for the citizens of Kern County.

- R2. *It is recommended that the District revisit the 6 Step program for annual salary adjustments. The adjustments are not based on merit evaluation and should be. Secondly the 5% annual raise is judged to be too lucrative for the economic times. The Committee recommends that, for the immediate term, a salary freeze be put into place until oil prices recover to a breakeven level. Otherwise the District might consider substituting a cost of living adjustment until sufficient tax revenues are received. (Finding F4)*

The District believes the current policy of a 5% 6 step raise system is effective. The system has been in effect for over thirty years. This is the only raise system that the District has, we do not give cost of living raises or any other incentive raises. This system has allowed the District to remain competitive in the marketplace with similar jobs and wages.

- R3. *The work force of 50 to 60 part-time employees may be more than is needed to do the work required. It is recommended that the District make a studied effort to reduce this work force by one job at a time. Each part time job is a cost of about \$15,000 per year based on 30 hours per week. (Finding F5)*

The District believes the current staffing level is appropriate for the amount of programs that are currently offered. Should tax revenue continue to fall it will become necessary to eliminate some programs and therefore, the corresponding number of staff.

- R4. *The Grand Jury recommends that the District do a five year contingency; budget based on only modest increases to the current level of revenue. If cash reserves are not sufficient to cover the deficit income for five years, changes will need to be made over time. (Finding F6)*

The District agrees that a five year contingency budget is important. Our current practice is to start with the past year's budget and add or subtract to the line items based on the tax revenue estimates provided by the County of Kern. Based on our current level of spending, the District has enough reserves to fund the next five years should our current revenue remain the same. Using this system we have a five year plan without having to make any assumptions as to what the tax revenue will be in five years.

- R5. *The Grand Jury recommends that an upward adjustment be made to the recreational fees. At the current levels, the fees for example, are lower than the commercial health gyms. It is commendable that the fees are very affordable. However, the situation must be faced that the District cover expenses. If necessary, for purposes of affordability, offer a discounted fee to qualified low income residents. Residents that are covered by Medicare would continue to be covered even with a higher use fee. (Finding F7)*

The District has had a long standing guideline for assessing fees and charges. We strive to make money on adult programs, breakeven on senior programs and subsidize youth programs. This is based on the notion that the District is tax supported and was formed to provide recreation opportunities that individuals could not afford on their own. The District does have a STOP Scholarship Program (Strive to Optimize Participation) that provides funds for low income families that would otherwise be unable to participate due to lack of funds.

- R6. *The Grand Jury recommends that the District communicate to the community and announce their financial situation for 2015-2016 and, very possibly for the coming 2 to 5 years. Explain that the District is operating at a \$1,000,000 budget deficit in 2016 and that cost reductions are being considered for the coming year. (Findings F5, F6 and F7)*

The District agrees with this recommendation. The Board of Directors has determined that it would be most effective to outline the District's budgetary information in conjunction with the approval of the 2016-2017 budget. The reason for this timing is that after the mid-year revisions, the District is on track to deficit spend approximately \$500,000 instead of the \$1,000,000 budgeted for 2015-2016.