

# **2007/2008 YOLO COUNTY GRAND JURY**

## **FINAL REPORT**

**A Report for the Citizens of Yolo County, California**



**June 30, 2008  
Woodland, California**



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GRAND JURY  
County of Yolo

P.O. Box 2142  
Woodland, CA 95776

June 30, 2008

Judge Steven Basha  
Yolo County Superior Court  
725 Court Street  
Woodland, CA 95695

Dear Judge Basha and Citizens of Yolo County:

On behalf of the 2007/2008 Yolo County Grand Jury, I am pleased to present our Final Report. From my point of view, citizens of Yolo County are very fortunate. Nineteen Grand Jurors met and deliberated twice a month in regular meetings. Further, most Jurors met much more often and for long periods of time—day time, evening, weekends, and for entire days—serving on committees to carry out the duties of oversight, investigation, and hearings vested in us by the Citizens of Yolo County. Even this, however, does not capture what I take to be the truly glorious nature of the Grand Jury. Nineteen citizens brought our common sense grounded in a spirit of fair and open mindedness, committed to discovering what are the facts of each case and drawing carefully thought-out inferences from those facts. Nineteen citizens demonstrated truly remarkable dedication backed with many hours of work to carry out our charge to the best of our abilities. From my point of view as Foreman, ordinary American citizens clearly have what it takes to engage in the processes of deliberation in the spirit of open-minded inquiry and to serve as participants in our foundational democratic processes to ensure good government and its manifestations in Yolo County.

The Grand Jury has received 43 public complaints, undertaking 10 investigations resulting in five final reports. In the process, five subpoenas and eight subpoena Duces Tecums were served. Six oversight visits were conducted. In addition, the Grand Jury served on two criminal investigations issued from the District Attorney.

No one does great work alone. The Grand Jury especially thanks District Attorney Jeff Reisig, Chief Deputy District Attorney Ann Hurd, Chief Investigator Pete Martin, and Lieutenant Dan Stroski, and Staff Services Analyst Vicki Guerrero, for remarkably prompt research, helpful advice, and service with subpoenas. The Grand Jury also thanks Judge Doris Schockley, Judge Thomas Warriner, and Judge Steven Basha for their sage legal advice; County Counsel Robyn Drivon for her open and willing commitment to lend a legal hand to the Grand Jury; and to County Administrative Officer Sharon Jensen for her responsive and helpful attitude to doing the work of the Grand Jury. Finally, the Grand Jury heartily thanks Robyn Weaver for her faithful service to the Grand Jury, along with her prompt and pleasant responses to all requests and cooperation with the Grand Jury. The Grand Jury also thanks the many cooperative witnesses called to testify before the Grand Jury, for their time and for their generous service in search of the truth in matters at hand.

The 2007/2008 Grand Jury thanks the citizens of Yolo County for the opportunity to serve you!

Sincerely Yours,



Anne Pym McDonald, Foreman  
2007/2008 Yolo County Grand Jury

**The 2007/2008  
Yolo County Grand Jury**

**Anne McDonald, Foreman, *Capay***

**Suzanne Aguilar, *Woodland***

**Norma Alcala, *West Sacramento***

**John Baggaley, *Woodland***

**Roger Berriman, *Woodland***

**Steven Blake, *Davis***

**Barbara Burr, *Davis***

**Judith Coulter, *West Sacramento***

**Janice Gabriel, *West Sacramento***

**Chris Griffith, *Woodland***

**Ken Henderson, *Woodland***

**Kenneth Hoots, *Davis***

**Loren Ishii, *West Sacramento***

**Peter Kenner, *Davis***

**Darin Kishiyama, *Davis***

**Cathrine Lemaire, *Woodland***

**Jeff McCallum, *Woodland***

**Donna Morinaga, *West Sacramento***

**Ava Woodard, *Woodland***



# INTRODUCTION

## About the Yolo County Grand Jury

The United States Constitution's Fifth Amendment and the California Constitution require that each county appoint a Grand Jury to guard the public interest by monitoring local government. Per California Penal Code 888, the Yolo County Superior Court appoints 19 Grand Jurors each year from a pool of volunteers. These Yolo County citizens, with diverse and varied backgrounds, serve their community as Grand Jurors from July 1st to June 30th. The Yolo County Grand Jury is an official, independent body of the court, not answerable to administrators or the Board of Supervisors.

### FUNCTION

A California Grand Jury's primary responsibility is to promote honesty and efficiency in government by reviewing the operations and performance of county and city governments, school districts, and special districts. Based on these reviews, the Grand Jury issues a report that states its findings and may recommend changes in the way local government conducts its business. Copies are distributed to public officials, county libraries, and the news media. The governing body of any public agency must respond to the Grand Jury findings and recommendations within 90 days. An elected county officer or agency head must respond to the Grand Jury findings and recommendations within 60 days. The following year's Grand Jury will then report on the required responses. There were no required responses to the 2006/2007 Grand Jury report.

The findings in this document report the conclusions reached by the 2007/2008 Grand Jury. Although all the findings are based upon evidence, they are the product of the Grand Jury's independent judgment. Some findings are the opinion of the Grand Jury rather than indisputable statements of fact. All reports included in the document have been approved by at least 12 jurors.

The Grand Jury's final responsibility is to consider criminal indictments, usually based on evidence presented by the District Attorney. On its own initiative, the Grand Jury may investigate charges of malfeasance (wrong-doing), misfeasance (a lawful act performed in an unlawful manner), or nonfeasance (failure to perform required duties) by public officials.

The Grand Jury investigates complaints from private citizens, local government officials, or government employees. Grand Jurors are sworn to secrecy and, except in rare circumstances, records of their meetings may not be subpoenaed. This secrecy ensures that neither the identity of the complainant nor the testimony offered to the Grand Jury during its investigations will be revealed. The Grand Jury exercises its own discretion in deciding whether to conduct an investigation or report its findings on citizen's complaints. Any juror who has a personal interest in a particular investigation is recused from discussion and voting regarding that matter.

### HOW TO SUBMIT A COMPLAINT

Complaints must be submitted in writing and should include any supporting evidence available.

A person can request a complaint form at any local library, from the Grand Jury at P.O. Box 2142, Woodland, CA 95776, or from the Grand Jury's website at [www.yolocountygrandjury.org](http://www.yolocountygrandjury.org).

### REQUIREMENTS TO BE A GRAND JUROR

To be eligible for the Grand Jury you must meet the following criteria:

- Be a citizen of the United States.
- Be 18 years of age or older.
- You have been a resident of Yolo County for at least one year before selection.
- You are in possession of your natural faculties, of ordinary intelligence, of sound judgment and fair character.
- You possess sufficient knowledge of the English language.

*(continued on page 8)*

- You are not currently serving as a trial juror in any court of this state during the time of your grand jury term.
- You have not been discharged as a grand juror in any court of this state within one year.
- You have not been convicted of malfeasance in office or any felony.
- You are not serving as an elected public officer.

Following a screening process by the Court, Grand Jurors are selected by lottery.

Anyone interested in becoming a Grand Juror can submit their name to the Office of the Jury Commissioner, 725 Court Street, Room 303, Woodland, CA 95695, telephone (530)406-6828 or obtain an application from the Grand Jury's website at [www.yolo.countygrandjury.org](http://www.yolo.countygrandjury.org).





# INVESTIGATIONS

## **Decision-Making Processes & Brown Act Compliance of WOODLAND JOINT UNIFIED SCHOOL DISTRICT**

### **EXECUTIVE SUMMARY**

This report by the 2007/2008 Yolo County Grand Jury finds the Woodland Joint Unified School District (the District) violated the Ralph M. Brown Act (the Brown Act) in its decision making process concerning the purchase and lease of a new administrative office building in Woodland, California.

The Grand Jury also finds the District engaged consultants as part of that process in a manner that may have provided duplicate compensation for services; failed to monitor consulting contracts so that the District incurred expenses in excess of the limit authorized by the Board of Trustees and set forth in the consultant's contracts; undertook long term financial obligations regarding lease and purchase of a new administrative office building based upon incomplete or inaccurate data; failed to analyze alternatives for meeting the District's administrative office space needs; adopted a 30 year financing plan to pay for an eight year administrative office space requirement; and falsely reported on safety of the Cottonwood premises in which the District is currently housed. Some of the District's public announcements and communication concerning the adequacy of its existing administrative offices and plans for obtaining use of a new facility at 425 Sixth Street in Woodland were misleading.

This report recommends the District's Board of Trustees meet in closed session only for deliberations and actions legally permissible during non-public meetings; strengthen its administrative oversight of service vendor contracts to ensure there is no overlap; reasonably match length of financing term of property purchases with anticipated need; document its consideration of alternate financial strategies before undertaking material long term financial obligations; conduct due diligence of significant facts; review public announcements and communication to ensure they are not misleading; and embrace open deliberation of District policies and issues as elected servants of the community.

The effective date of this report is May 1, 2008.

### **BACKGROUND**

Questions of policy and oversight of the District are the responsibility of the District's Board of Trustees. Only the Board of Trustees may decide whether the District should own or lease its central offices, how those offices should be financed, or where they should be located. The Grand Jury's interest is to ensure the business of the District is conducted free of conflict of interest and based upon the exercise of due diligence and with public discussion of the issues as required by law.

The 2007/2008 Yolo County Grand Jury investigated the process by which the District decided to purchase the commercial real property commonly referred to as the "Blue Shield" property at 425 Sixth Street, Woodland, California. Multiple citizen complaints filed with the Grand Jury suggested violation of the Brown Act and conflict of interest among District officials or consultants and Blue Shield property owners or their agents. This investigation was commenced to determine whether these concerns were justified.

Among other things, the investigation disclosed a failure of the District to abide by the requirements of the Brown Act in respect to the Blue Shield property transactions. As of the effective date of this report the District continues to be noncompliant with the Brown Act.

### **APPROACH**

This investigation involved more than 24 interviews including all complainants, certain District officials and consultants, and other witnesses not affiliated with the District. The Grand Jury reviewed almost 4,000 pages of documents. Many of these were produced by the District (some voluntarily but most in response to judicial subpoenas). The Grand Jury also reviewed documents and correspondence of other witnesses and consultants not directly affiliated with the District, along with numerous legal documents and contracts, relevant state statutes, and other legal authorities. The Grand Jury's investigation was delayed and made more difficult by the District's destruction of relevant email files during the time of the investigation. In addition, the District's legal counsel resisted Grand Jury requests to interview District staff and to obtain relevant District records.

### **DISCUSSION**

#### **A. No Conflict of Interest or Use of Inside Information**

In response to citizen complaints, the Grand Jury

looked into possible conflict of interest or use of inside information in the District's planned purchase of the Blue Shield building. At this time the Grand Jury has found no evidence of improper influence or conflict of interest on the part of any member of the Board, the Superintendent or any other District official and the current or former owner of the Blue Shield property.

### **B. Closed Meetings of Board of Trustees and the Brown Act**

The purpose of the Brown Act is to ensure public discussion and decision making. Only limited actions of the Board may be taken in closed session meeting. In addition to an actual vote by a majority of the members of the Board, Section 54952.6 of the Brown Act defines Board action as any collective decision, commitment or promise by a majority of the members of the Board to make a positive or negative decision. For an overview of the relevant provisions of the Brown Act, see Attachment A: Brown Act Summary.

The District's Board meeting agendas and minutes as published on the District's website disclose the following:

- In 15 months, between January 2007 and April 2008, 31 closed session meetings were held; eight were reported as having to do with relocation of the District's central office and/or the Blue Shield building purchase.
- Of those eight closed session meetings, only three (September 27, 2007, January 24, 2008, and March 10, 2008) gave the address of or otherwise adequately identified the Blue Shield property as required by the Brown Act.
- The purchase of the Blue Shield building was discussed during public sessions only three times. There was no public announcement or discussion of plans to relocate the District's central office until December 13, 2007 (nearly 12 months after planning and negotiating for the acquisition of the Blue Shield property had begun). In that December 13, 2007 public session, the Board approved purchase, financing planning, and agreement with Brereton Architects for office plans. In addition, prior to the December 13, 2007 public session, no closed session action relating to the purchase of the Blue Shield Building had been reported or acted upon in public session as required by the Brown Act.
- The August 9, 2007 closed session meeting included a tour of the Blue Shield building (under the Brown Act, tours are not considered acceptable uses of closed session meetings).

Absent of a valid Brown Act notice, both the No-

vember 20, 2007 and December 13, 2007 closed sessions were required to be public, since there was no basis for closed session meeting. The December 6, 2007 meeting—which included discussion of the Cottonwood Premises, alternate sites, and whether purchase was timely, affordable or advisable—was also required to be in public session. There is no exemption from the public meeting requirement of the Brown Act which permits these topics to be discussed in closed session meetings. With respect to conferring with its real property consultant<sup>1</sup> in closed session, only price and/or terms of payment may be discussed.

The Board agendas and minutes first mention relocation of the District's central office in connection with the Board's April 26, 2007 meeting. The following Board meetings were the only closed sessions for which public notice was given having to do with relocation of the District's central office:

- April 26, 2007 – Closed Session: “Conference with Real Property Negotiator, Mr. Scott Sheldon, Regarding Price and Terms of Payment of Properties, Pursuant to Govt. Code 54956.8: a. Potential Site for New Elementary School – Russell Ranch Property and b. Potential District Central Office Relocation Site.” No action was reported in the following public session.
- June 28, 2007 – Closed Session: “Conference with Real Property Negotiator, Mr. Scott Sheldon Pursuant to Govt. Code 54956.8: Regarding Price, Terms and/or Terms of Payment: Former Blue Shield Building.”
- August 9, 2007 – Closed Session: “Conference with Real Property Negotiator Mr. Scott Sheldon, Pursuant to Govt. Code 54956.8, Regarding Price and/or Terms of Payment: Former Blue Shield Building.” The Board also adjourned to the Blue Shield building for a closed session tour of that property.
- September 27, 2007 – Closed Session with real estate consultant: “Regarding Price and/or Terms of Payment of the Former Blue Shield/Yancey Building Located at 425 Sixth Street.”
- October 25, 2007 – Closed Session with real estate consultant: “Regarding Price and/or Terms of Payment for the Former Blue Shield Building

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<sup>1</sup> Premier Commercial, Inc., a real estate services firm, was engaged by the District as its real estate consultant. One of the owners of that firm was designated by the District as its “Real Property Negotiator” for purposes of Sections 54956.7(b) and 54956.8 of the Brown Act.

(Parcel #006-122-07).” The District’s attorney also attended this closed session meeting but his attendance was not announced.

- November 20, 2007 – Closed Session: “Conference with Real Property Negotiator Scott Sheldon and Legal Counsel from Miller, Brown & Dannis, Pursuant to Govt Code 564956.8: Regarding Price and/or Terms of Payment for the Former Blue Shield building (Parcel #116-122-07).”
- December 13, 2007 – Closed Session: “Conference with Real Property Negotiator Scott Sheldon and Legal Counsel from Miller, Brown & Dannis, Pursuant to Govt Code 564956.8: Regarding Price and/or Terms of Payment for the Former Blue Shield Building (Parcel #116-122-07).”
- March 10, 2008 – Closed Session: “Conference with 1. Real Property Negotiator Scott Sheldon and Legal Counsel from Miller, Brown & Dannis pursuant to Govt Code 54956.8: Negotiations with Blue Ice, LLC Regarding Price or Terms of Payment for the Property Located at 435 Sixth Street, Woodland, CA (Parcel #006-122-07). 2. Conference with Legal counsel from Miller, Brown & Dannis. Anticipated Litigations: Significant Exposure to Litigation Pursuant to Govt Code Section 54956.9(b): one (1) case.”

The March 10, 2008 closed session meeting continued for more than two hours, while the following public session lasted only moments. As of May 1, 2008, no minutes of that lengthy March 10, 2008 closed session meeting—or of any public session which followed it—have been made available by the District. However, the day following the March 10, 2008 Board meeting, the District Superintendent gave a press release to a local newspaper indicating the Board had terminated the Blue Shield property acquisition transaction and sent a formal termination letter to the Blue Shield property owner. Several days later, during the regular March 13, 2008 public meeting of the Board and at the particular request of one of the Trustees, the Superintendent announced the March 10, 2008 closed session action of the Board terminating the Blue Shield property transaction.

On March 11, 2008, in an email to senior District employees concerning the March 10, 2008 closed session meeting of the Board, the Superintendent stated that the Board’s termination of the Blue Shield purchase transaction “...does not necessarily mean we won’t still occupy that building because the Board, in a 4 – 2 vote (with Trustee Glover absent) directed staff to develop a lease/purchase option for the same property.” Such vote action was not contained in the agenda for the March 10, 2008 meeting. During the brief public session meet-

ing immediately following the closed session, the Board announced they were not going to purchase the building because they could not obtain financing.

It is clear the Blue Shield purchase process did not involve the public prior to the Board’s public action on December 13, 2007.

See Attachment A: Summary of Relevant Provisions of the Brown Act.

### **C. Reasons for Purchase of Blue Shield Property: Owning v. Leasing and Safety**

The investigation revealed two main reasons attributed for the purchase of the Blue Shield building: 1) owning is better than leasing and 2) the Cottonwood property is unsafe.

### **Owning v. Leasing – Faulty Facts Lead to Doubtful Conclusions**

Based upon the Grand Jury’s investigation, objective factors in addition to individual intuition appear never to have been duly considered or the subject of any serious analysis. Such factors might have included current tightness of the long term debt market, the actual cost of the Blue Shield property and of comparative cost of the financing proposed for the Blue Shield purchase compared to alternative sites and financing methods or consideration of an analysis of the cost of leasing compared to the cost of owning a central office facility.

Potential cost savings were a major factor in the Board’s decision to purchase the Blue Shield property. The statements made by a trustee at a January 16, 2008 Key Communicators meeting (a monthly meeting held with the administrative personnel, Board of Trustee members and any public citizen), public comments made by other trustees, and recommendations of Premier Commercial, Inc. (the District’s real property consultant), consistently identified the cost of future annual rent for the Cottonwood Premises to be between \$414,000 and \$450,000—almost twice the current annual rent of approximately \$230,000. This increase in rental cost was claimed to be comparable to the expected initial annual loan payment for the planned purchase of the Blue Shield property.

While the assumed \$414,000 to \$450,000 rental cost of the Cottonwood Premises seemed to serve as justification for purchase of the Blue Shield site, the Superintendent and the District’s real estate consultant knew the owner of the Cottonwood premises had made a written offer to extend the lease of the Cottonwood Premises for up to 10 years at an annual rental cost of approximately \$276,000. The owner also offered to work with the District with respect to this proposed lease amount as well as the length of an extended lease term. Investigation revealed that only some of the Trustees were informed the



Cottonwood Premises could be leased for an annual rent of approximately half the first year's interest-only payment required for purchase of the Blue Shield property.

Before privately committing to purchase the Blue Shield property, neither the District's real property consultant, Premier Commercial, Inc., nor any District official negotiated with the owner of the Cottonwood Premises for renewal of the lease, nor made any analysis of the benefits and risks of continuing as a tenant there compared to the benefits and risks of purchasing the Blue Shield property. Analysis of alternative central office sites was not done by the District's real estate consultant until after the District had engaged in extensive negotiation for the purchase of the Blue Shield property, and the Board had privately determined to purchase the Blue Shield property.

The financing approach adopted by the District involved the issuance of Certificates of Participation Participation (COP).<sup>2</sup> The annual Blue Shield COP payments were to increase by three percent per year calculated on a compounded basis. The precise annual mortgage payment amounts would only be known after the Blue Shield COPs were sold to investors. The Blue Shield financing plan was expected to require a first year payment of approximately \$479,000, increasing every subsequent year on a 3% compounded basis, throughout the 30 year financing term. Under this arrangement, the annual Blue Shield purchase payment was estimated to reach more than \$1,000,000 per year during the last years of the 30 year mortgage.

For a summary of the financing and transactional costs of the Blue Shield purchase see Attachment B: Financial Commitments for Blue Shield Building Purchase.

### **Safety Issues – Public Relations or Public Health?**

The second reason given for moving from the Cottonwood Premises was that the Cottonwood property is unsafe due to the existence of perchloroethylene (PCE) in the ground water and ambient air within the District's central office. The existence of PCE in the groundwater at the Cottonwood facility has been public knowledge since 1992.<sup>3</sup> Regular ground water monitoring was underway by the beginning of 1997, a year and a half be-

fore the District leased the building. At any rate, water supply to the Cottonwood Center is from municipal water treatment facilities, not ground water wells.

Shallow PCE ground water contamination often results in evaporative PCE vapors above its underground presence. On November 20, 1998, shortly after the District moved into the Cottonwood Premises, the County Health Department made tests and reported that PCE was not detectable in the ambient air at the premises. During June 2000 and February 2001 testing indicated unsafe PCE levels at certain locations in the Cottonwood Premises. During 2001 and 2002 precautions were taken to ensure a safe environment within the Cottonwood Premises. The Cottonwood Premises heating, ventilating and air conditioning systems were upgraded to ensure positive inside air pressure and thorough filtering and circulation of inside air. In addition, supplementary charcoal air filters were installed, and substantial District employee training and education programs implemented. Also, in 2001 the owner of the Cottonwood Center installed and began operation of subsurface PCE vapor extraction equipment at the Cottonwood Center.

During 2001 and 2002, sampling and testing of air quality at the Cottonwood Premises was carried out by several independent environmental experts. These experts included Atlantic Pacific Environmental, Western Geo-Engineers, and Bio-Max Environmental. After implementing a soil vapor extraction system, analysis of these test results concluded that ambient air quality was satisfactory, and that measured levels of PCE were at levels lower than regulatory limits. These sampling and testing reports confirmed a decrease in PCE concentrations in ambient air within the Cottonwood Premises.

Since 2001, the California Regional Water Quality Control Board (RWQCB) has overseen and monitored the Cottonwood Center owner's PCE remediation activities. To the effective date of this report, the RWQCB and the Environmental Health Division of the Yolo County Health Department have received no health complaints concerning the Cottonwood Center since April 2001. Since this time, the District neither received nor filed any health complaints as of the effective date of this report.

The investigation revealed that despite the environmental history of the Cottonwood Premises, the District remains determined to move its administrative offices to the Blue Shield property. At a January 16, 2008 meeting of Key Communicators of the District, a trustee told parent representatives that the Cottonwood Premises "has environmental hazards that cannot be eliminated" and emphasized the role of the Key Communicators in "informing the public."

Shortly after a January 24, 2008 public presentation

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<sup>2</sup> For a summary description of Certificates of Participation, see Attachment C: Certificates of Participation.

<sup>3</sup> The presence of PCE resulted from a retail dry cleaning operation within the Cottonwood Center. PCE has historically been used in commercial dry cleaning. If not properly handled, PCE may become a ground water and soils contaminant which migrates underground much the same as ground water.

of some background details of the decision to purchase the Blue Shield property, and encountering public opposition to the purchase, the District engaged a new environmental consulting firm (Schutze & Associates) to analyze air samples from the Cottonwood Premises. The resulting report, dated March 9, 2008, (the Schutze Report) is consistent with earlier rounds of sampling and analysis; namely, that some PCE is present but remains well below concentrations that would be expected to present health risks to District employees or to visitors at the Cottonwood Premises.<sup>4</sup>

The District has characterized the Cottonwood Facility as being unsafe, based upon the Schutze Report, even though the Schutze Report does not make any such assertion. No written health complaints from employees or visitors to the Cottonwood Facility were received. The School District relied upon the real property consultant as the basis for the opinion that ambient air PCE concentrations at the Cottonwood Facility are unsafe.

Despite the lack of any evidence of material health risk due to PCE contamination, following the March 10, 2008 special closed session meeting of the Board, the District evacuated and closed off a portion of the Cottonwood Premises and posted signs on the doors to those spaces advising persons not to enter due to possible contamination. The District also began moving some central office employees to temporary premises elsewhere.

#### **D. Inadequate Monitoring of Consultant Contracts and Duplicate Services**

The District engaged several consultants in connection with relocation of the District's central office and purchase of the Blue Shield property. Fairfield-based Premier Commercial, Inc. was engaged to supply both real estate consulting services and real estate brokerage services. The two individuals performing these services are both shareholder principals of Premier Commercial,

Inc. During fiscal year 2006/2007, and the current fiscal year to the effective date of this report, the District incurred hourly real estate consulting fees payable to Premier Consulting, Inc. in excess of \$150,000. Upon closing of the District's acquisition of the Blue Shield property, the other shareholder principal of Premier Commercial, Inc. will receive a commission for acting as the District's real estate broker in the approximate amount of \$135,000.

Other consultants include San Francisco-based Breton Architects (assessment of space needs and design of tenant improvements at the Blue Shield property), and Miller, Brown and Dannis (attorneys with offices in San Francisco, Long Beach and San Diego).

Typically a real estate broker provides his buyer-client services including identification and evaluation of potential properties, negotiation of price and payment terms, advice on title and insurance matters, and facilitation of the closing of the purchase transaction. In this case, the shareholder principal of Premier Commercial, Inc. was engaged as real estate consultant and compensated at a rate of \$150 per hour for some of these services which the other shareholder principal of Premier Commercial, Inc., acting as the District's broker, will receive real estate commission of approximately \$135,000 upon the closing of the purchase.

The real estate consulting fees and the real estate brokerage fees paid to Premier Commercial, Inc. would be applied by Premier Commercial, Inc. first to its operating overhead (such as rent, advertising, staff wages and salaries, utilities, equipment, insurance, office supplies, etc.) then allocated and distributed to the two shareholder principals. Because such fees and commissions are first applied to the operating expenses of Premier Commercial, Inc., and because of the obvious and understandable tendency of principals of the same firm to refer business from one to another, the potential for conflict of interest detrimental to the District plainly exists.

The District is required to obtain Board approval for purchase orders exceeding \$15,000. The District has no policy in place preventing incremental contract expenditures by the Superintendent in excess of the total contract amount approved by the Board. In the case of the District's real estate consultant contract, only \$100,000 was authorized in advance by the Board. An additional approximate sum of \$50,000 was paid without Board approval on the basis that no single incremental payment exceeded \$15,000.

The District's real estate consultant had no contract with the District from October 2006 to August 23, 2007. During this time the real estate consultant continued to perform services on behalf of the District.

<sup>4</sup> The Office of Environmental Health and Hazard Assessment sets the following standards for evaluating health risk due to PCE exposure in the work place, based upon exposure to levels of PCE 8 hours/day, 5 days/week, over 30 years:

- 1) Immediate Health Effect Level (acute, as in a dry cleaner operation): more than 200,000 micrograms per cubic meter of PCE: variety of symptoms possible;
- 2) Chronic Reference Exposure Level: 35 micrograms per cubic meter of PCE: possible kidney or liver damage;
- 3) California Human Health Screening Level: 0.693 micrograms per cubic meter of PCE: 1 in a million risk level for cancer.

The most recent sampling of the District's Cottonwood Premises indicated PCE levels were satisfactory. Those State and County regulatory authorities knowledgeable of the situation and consulted by the Grand Jury confirmed no special or immediate health hazard to workers or visitors exists at the Cottonwood Premises due to PCE contamination.

### E. A Question of Due Diligence

Due diligence is generally defined as reasonable good faith efforts in performance of duty, including the process of examining relevant facts, accomplished without conflict of interest.

1. A space needs assessment study, conducted by Breton Architects, considered District central office needs for the next eight years. The District authorized financing for purchase of the Blue Shield property and related tenant improvements over 30 years. The furniture, fixtures and equipment were also to be purchased by the 30 year COP financing plan. Such property has a useful life of much less than 30 years.

Financing of furniture, fixtures and equipment over 30 years would add interest expense more than twice the cost of such property; i.e., property costing \$565,000 after 30 years of interest expense would require total repayment of almost \$1,200,000. Property of this sort wears out and becomes obsolete within six to ten years and would need to be replaced notwithstanding that payment for it would continue over the full 30 year repayment period of the COPs.

The District's central office space needs assessment was for only eight years. After eight years tenant improvements would need to be redone and updated to meet District space needs at that time. Still, payment for the original tenant improvements would continue during the entire 30 year term of the COPs. This would add interest costs to the actual \$1,600,000 of tenant improvements requiring total payments of approximately \$3,300,000 notwithstanding that some portion of these tenant improvements would need to be replaced or redone as soon as eight years. (See Attachment B.)

The Grand Jury found a remarkable lack of understanding about what Certificates of Participation (the financial instrument for funding the Blue Shield building purchase, tenant improvements, and furnishings) are and how they work.

2. The investigation included a review of a provision in the purchase contract for an eminent domain concession. Later in the investigation, at the Board's public session meeting of January 24, 2008, public comments were reviewed which disclosed a closed session vote not to use eminent domain. In response, the real estate consultant described the eminent domain concession to the seller as a "negotiating tool."
3. Consistently, investigators found a lack of knowledge of the Blue Shield purchase process, including, but not limited to, critical event dates: (a) when the purchase agreement was signed; (b) when the Blue Shield building came to the attention of the Dis-

trict; (c) when the District first met with architects; (d) when the District's real property consultant first looked at the Blue Shield building; (e) when space needs analysis was done in relation to when the District made the offer to purchase the Blue Shield property; or (f) when the Blue Shield acquisition was first put on the Board's agenda. In addition, the investigation revealed very limited knowledge of the contract provisions and lease agreement, as well as to why some minutes concerning the Blue Shield matter were not published on the District's web site.

4. As of the effective date of this report, the Board has taken closed session action to acquire the Blue Shield property through a lease arrangement which includes an option to purchase. No public meetings have been held regarding this plan.

As of the effective date of this report, no minutes of the very brief public session of March 10, 2008 (or report of any action following the lengthy closed session) have been made available by the District. However, the day following the March 10th Board meeting, the District's Superintendent gave a press release to a local newspaper indicating the Board had terminated the Blue Shield property acquisition transaction and sent a formal termination letter to the Blue Shield property owner. Several days later, investigators attended the regular March 13, 2008 public meeting of the Board when, at the request of one of the Board Trustees, the Superintendent announced the March 10th closed session action of the Board terminating the Blue Shield property transaction.

At the March 19, 2008 Key Communicators meeting, the District Superintendent told the parent representatives and others at the meeting that during its March 10, 2008 special closed session meeting the Board terminated the purchase transaction for the Blue Shield property because "...a citizen made allegations to the Grand Jury and there is an on-going investigation." In an email to senior District administrators on March 11, 2008, the Superintendent stated that the Board at its March 10, 2008 meeting had taken action in closed session "...to develop a lease/purchase option for the same [Blue Shield] property" and that after June 30, 2008 the Board still intended to move forward with the same Blue Shield property purchase transaction it had abandoned at its March 10th meeting. The environmental status or condition of the Cottonwood Premises was not mentioned.

### FINDINGS

#### Conflict of Interest

F1. To date, the Grand Jury has discovered no evidence



of conflict of interest on the part of members of the District's Board of Trustees, any District officer, or any owner or former owner of the Blue Shield property in connection with purchase or lease of the Blue Shield property.

**Brown Act**

- F2. Closed Session meeting agendas did not contain required information, in violation of the Brown Act.
- F3. Action was taken during closed session meetings of the District's Board of Trustees in violation of the Brown Act.
- F4. The District did not report in a public session on the plan to purchase the Blue Shield building until at least 12 months after planning and negotiations had begun. The purchase of the Blue Shield building was discussed in public sessions only three times.
- F5. The Board failed to comply with the open meeting requirements of the Brown Act during its consideration and discussion of questions relating to relocation of the District's central administrative offices and acquisition of the Blue Shield property. Consideration and discussion of these matters could have been the subject of open and public meetings of the Board. Even if these matters were appropriate for closed confidential meetings, the determinations made, direction given, and/or concurrence reached among a majority of the Trustees of the Board during these closed meetings constituted action which should have been promptly announced in public session.
- F6. Only negotiation of price and terms of payment are permitted to be discussed in closed Board meetings relating to a real property purchase. The Brown Act requires all other issues concerning real property transactions be taken up in open, public meetings. The Board failed to adequately inform and educate the District's constituency about the nature of Certificates of Participation financing compared to traditional bond financing and the reasons for the Board's determination to use Certificates of Participation financing to acquire new central administrative offices.
- F7. Timely open and public discussion of the Board's program for new central administrative office facilities may have minimized or prevented the controversy which greeted the Board's eventual public disclosure of the Blue Shield property acquisition and financing transactions.

**Justification for Purchase**

- F8. The Board determined to purchase the Blue Shield property based in significant part upon a philosophical view that "owning is better than renting" without undertaking any analysis to verify that purchasing would actually be more advantageous to the District than leasing the Blue Shield property or purchasing or leasing other property.
- F9. One main reason given to justify the purchase of the Blue Shield building—owning is better than leasing—indicated a flawed decision-making process, based on faulty assumptions and without verification of actual costs. It did not take into account the market, State deficits, cost of Certificates of Participation, space needs, and the cost of financing furniture and equipment for 30 years.
- F10. In closed session the Board of Trustees affirmatively rejected the notion of legal action to acquire the Blue Shield property by eminent domain proceedings. Yet the Trustees entered into a final and binding purchase agreement which stated that the purchase was made under actual threat of condemnation by the District.
- F11. The other reason given for the purchase of the Blue Shield building—that the Cottonwood Premises are unsafe—is misleading in light of evidence provided by the monitoring and remediation of the Cottonwood Center carried out over many years and the assessment of expert Yolo County and State of California agencies of the current environmental status of the Cottonwood Center.
- F12. In the face of increasingly critical public sentiment and the continued resistance of a strong minority of the members of the Board to the Blue Shield acquisition, the District distorted the environmental status of their existing central administrative offices by sensationalizing environmental health risks associated with ground water contamination and air quality at that location. These actions appear to be calculated public relations efforts and do not appear to be warranted by any special health risk associated with working in or visiting the District's existing central administrative offices. The District has had no record of employee health complaints at the Cottonwood Premises since 2001.

**Consultants and Purchasing**

- F13. The District's real property consultant was paid at rates up to \$150 per hour for work that should have been done by the District's commission real estate broker, costing District tax payers unnecessary real estate consultant fees.

- F14. There is a conflict of interest created in hiring a real property consultant and a real estate broker from the same real estate services firm, a conflict which may result in direct monetary benefit to the consultant and/or the broker.
- F15. There is no District policy in place regarding purchase order addenda for sums in excess of the maximum amount of the original purchase order approved by the Board of Trustees.

**Due Diligence and Decision-Making Process**

- F16. The authorized financing of the Blue Shield property amortizes the full cost of purchasing, upgrading and equipping the Blue Shield property over 30 years notwithstanding that the future space needs assessment study only estimated the District's central office space needs for the next eight years.
- F17. The Board authorized purchase price for the Blue Shield property of \$5.67 million, plus planned tenant improvements and upgrades of \$1,600,000 and \$565,000 for furnishings and equipment. After adding financing transactional expenses and interest costs associated with the Certificates of Participation financing plan, the District's financial advisor estimates total Blue Shield property cost amounts to more than \$21 million. This amount does not include \$233,568 in other consulting and attorneys' fees already incurred through April 9, 2008, nor does it include any fees to be incurred after April 9th.
- F18. Material changes in financial and credit markets since the Board's execution of the Blue Shield purchase contract have made long term mortgage borrowing, especially financing plans using mortgage payment guarantees, more difficult and more expensive. Yet the District still plans to proceed with purchase of the Blue Shield property on July 1, 2008. According to an email written by the Superintendent, the District plans "...to lease the building and then purchase it when the cloud of the investigation has been lifted."
- F19. The District's plan for payment of furniture and equipment required in the Blue Shield property in addition to extensive tenant improvements and upgrades is based upon a 30 year payment plan notwithstanding that the useful life of such furniture and equipment is typically many years fewer.
- F20. The Board failed to perform and failed to require senior staff to perform adequate due diligence in its consideration of alternative central office sites.
- F21. The District withheld from the Board the actual, negotiable lease renewal offer of the Cottonwood

Premise owner, leaving the Board with incomplete information upon which to make their decision to lease or purchase the Blue Shield property or to remain at the Cottonwood premises.

- F22. The Superintendent demonstrated over-reliance upon the District's real estate consultant, at the expense of her own knowledge.
- F23. Decision makers, with a few note-worthy exceptions, did not appear to be informed in areas critical to their role in the decision making process in connection with relocation of District administrative offices or acquisition of the Blue Shield property.
- F24. The District's legal counsel worked to frustrate and limit the Grand Jury's requests to the District for information concerning the subject matter of this report and interviews of District officers.
- F25. The Board of Trustees based the cost of alternatives to the purchase of the Blue Shield property upon faulty assumptions and without verification of actual or most likely costs, resulting in a seriously flawed decision making process.
- F26. The determination that owning the Blue Shield property was better than leasing the Cottonwood Premises, to the extent it is based upon comparable annual cost, was misinformed because the actual lease cost available to the District was approximately 60% of the first year COP expense.
- F27. If the uninformed assumption that annual rental would be approximately \$450,000 a year - or even \$414,000 a year - was correct, the annual cost of owning the Blue Shield property would very materially exceed the Cottonwood Premises lease payments because the COP payments are intended to escalate by 3% per year on a compounded basis.
- F28. The District undertook detailed negotiations and entered a letter of mutual intent fixing upon purchase of the Blue Shield property before the District's own study of future administrative office space needs was presented to the Board of Trustees. The price and terms of payment were agreed upon before any valuation study of the Blue Shield property was commenced.
- F29. The Board failed to conduct timely due diligence in that they considered alternative central office locations after they had already decided upon and engaged in extensive negotiation for the purchase of the Blue Shield property.

**RECOMMENDATIONS**

- 08-01** The District should engage a policy and practice



of openness and cooperation toward the public with regard to major financial decisions. The Board of Trustees should engage in deliberation and decision making in public sessions in full compliance with the requirements of the Brown Act.

- 08-02** The Board should strengthen public confidence in its competence and authority by conducting its business and discussions in public session and utilize closed confidential session meetings only where expressly authorized by the Brown Act.
- 08-03** The Board and District administrators should share the public spirit of service to the community by organizing and conducting business in a way that increases public interest in District affairs, encourages public attendance and informs the public in open, shared deliberations and discussion.
- 08-04** The Board should take seriously its obligation to educate itself and its senior administrative staff about the open meeting requirements of the Brown Act and institute an annual continuing mandatory educational program about the Brown Act for Board members and senior staff.
- 08-05** Pursuant to Govt C 54957.2, the Board should designate an officer or employee of the District to attend each closed session meeting of the Board to keep a record of topics discussed, directions given, decisions made, and actions taken by the Board in closed session.
- 08-06** The Yolo County District Attorney should consider commencement of an action pursuant to Govt C 54960 to compel the District to comply with public meeting laws.
- 08-07** The District should approach the expenditure of its monetary resources with a commitment to frugality, careful research, and open communication and disclosure of the Board's decision making processes.
- 08-08** The Board should minimize use of long term consultants and, when possible, utilize qualified District personnel to their full advantage, both to reduce expenses and to increase accountability of individuals acting on behalf of the District.
- 08-09** The District should establish policy requiring that all District consultants act on behalf of the District only pursuant to a written contract which details the services to be provided to the District, the reporting relationship between the

consultant and a specified District officer or the Board, identify the District officer or officers authorized to direct the work of the consultant and establish the maximum amount of compensation payable to the consultant without further specific Board authorization.

- 08-10** The Board of Trustees should establish a policy regarding Board authorization and payment of addenda to purchase orders which aggregate to more than the \$15,000 maximum expenditure authority delegated by the Board to the Superintendent.
- 08-11** The Board of Trustees and School District should avoid even the slightest conflict of interest between or among vendors.
- 08-12** The Board and District administrators should exercise due diligence techniques and research, documenting its analyses underpinning important financial decisions and actions such as purchase or lease of capital assets. They should carefully consider alternatives, financial arrangements, and the economy when considering purchase of real property. They should also ensure understanding of important financial and contractual arrangements presented by District administrators and consultants.
- 08-13** The District Superintendent should read and have first-hand knowledge of all reports germane to her position.
- 08-14** The 2007/2008 Yolo County Grand Jury recommends the 2008/2009 Yolo County Grand Jury continue investigation of the Woodland Joint Unified School District including, but not limited to, compliance with the Brown Act.

### REQUESTS FOR RESPONSES

Pursuant to Penal Code section 933.05, the Yolo County Grand Jury requests responses as follows:

*From the following individuals:*

- Superintendent, Woodland Joint Unified School District (Findings F2 through F29; Recommendations 08-01, 08-03, and 08-07 through 08-13)
- Yolo County District Attorney (Recommendation 08-06)

*From the following governing bodies:*

- Woodland Joint Unified School District Board of Trustees (Findings F2 through F29; Recommendations 08-01 through 08-05 and 08-07 through 08-12)

## **APPENDICES** (Woodland Joint Unified School District)

### **ATTACHMENT A: Brown Act Summary of Relevant Provisions – Closed Meetings of Board of Trustees**

1. Meetings of the Board of Trustees are subject to the Ralph M. Brown Act, sometimes referred to as California’s “open meeting” law. The intent of the Act is that the public’s business be conducted in public and that members of governing boards of local agencies vote and be accountable to constituents for their official actions.
2. The Act requires all meetings of the Board be open and public and that all persons be permitted to attend any meeting of the Board unless a specific exception is provided in the Act. An agenda for regular meetings of the Board must be published at least 72 hours prior to the meeting. The agenda must contain a brief description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. Members of the public must be given an opportunity to address the Board at each general and special meeting of the Board, including matters indicated on the agenda to be discussed during closed sessions. Except in certain specified emergency situations, the Act prohibits the Board from taking action or discussing any matter not appearing on the posted agenda. Once a closed session has been completed, the Board must reconvene in public session where, with few exceptions, it must report the actions taken in closed session.
3. The Board may act on and discuss only certain specified matters in closed sessions. When describing closed session agenda items, the Board must comply with descriptive requirements of the Act. A closed session agenda item description does not authorize any business be done in closed session except the specific limited matters authorized by the Act. Three examples of exceptions from the public meeting mandate are relevant to this report.
  - a. To confer with Real Property Negotiator. When invoking this exception the Act requires the closed session agenda must specify the street address to the property in question, the name of the negotiator attending, the name of the negotiating parties, and whether negotiation will concern price, terms of payment or both.
  - b. To confer with Legal Counsel – Existing Litigation. This exception may apply when the District is a party to formally initiated litigation. This exception requires the closed session agenda specify either the name of the pending litigation case or, in lieu of the case name, specify whether disclosure of the case name would jeopardize service of process or existing settlement negotiations.
  - c. To confer with Legal Counsel – Anticipated Litigation. This exception involves exposure to litigation or initiation of litigation. In either situation the number of cases must be specified. Based on circumstances of each case, the closed session agenda item for conferring with legal counsel as to anticipated litigation may require additional details on the closed session agenda.
4. The Act expressly repeals the attorney-client communication privilege as to local legislative bodies and provides for very limited attorney client communication confidentiality for purposes of conducting closed-session meetings. The Act is the exclusive expression of the Board’s attorney-client communication privilege which may justify a closed session meeting with its counsel. If the Board expects to engage in communication with its counsel other than in an open and public session, the agenda must state the specific subdivision of Section 54956.9 of the Act that authorizes the closed session.
5. The Act requires closed session actions taken by the Board concluding real estate negotiations or directing the Board’s counsel regarding legal action be publicly reported and the vote or abstention of every Board member present disclosed.

**ATTACHMENT B: Financial Commitments for Blue Shield Building Purchase<sup>5</sup>**

The total purchase price and related expenses to be financed by the Certificates of Participation were:

Purchase Price	\$5,670,000
Design Architect	151,445
Insurance	5,625
Property Taxes	20,250
Tenant Improvements	1,600,000
Furniture, Fixtures and Equipment	565,000
Other soft costs	10,000
Closing costs	15,000
Contingency	193,280
Other (e.g. moving costs)	<u>250,000</u>
Subtotal	\$8,480,600
Owner financing @8.5%	117,938
Total Property Cost	<u>\$8,811,000</u> (sic)

Additional transactional financing expenses (i.e., exclusive of interest) were anticipated to amount to \$1,351,144, nearly two-thirds of this amount was to establish a debt service reserve in accordance with the Certificates of Participation financing. These transactional financing expenses consisted of:

Cost of issuance of the COPs	\$125,000
Payment guaranty premiums	212,677
Debt service reserve	886,154
Underwriting discount	127,313
Funds remaining	<u>22,856</u>

Total Transaction Financing Costs \$1,374,000

Grand Total of Funds Needed from Certificates of Participation:

Total Property Cost	\$8,811,000
Total Transaction Financing Cost	<u>1,374,000</u>
Proceeds Needed From Sale of COPs	<u>\$10,185,000</u>

The District's financial advisor calculated total interest cost of the COPs financing over 30 years at a weighted average interest rate of 4.71%<sup>6</sup> would require total repayment of principal and interest in excess of \$21,250,000. In addition, the following expenses were incurred by the District concerning the Blue Shield acquisition transaction:

Legal fees (July 25, 2007 – March 14, 2008)	\$90,129
Real Estate Consulting fees (October 31 – April 9, 2008)	<u>143,439</u>
Total Consulting fees to April 9, 2008 (not including Brereton Architects for \$151,455, listed above)	<u>\$233,568</u>

<sup>5</sup> These figures are taken directly from materials presented to the Board of Trustees in closed session prior to its December 13, 2007, public meeting by Premier Commercial, Inc., the District's real estate consultant, and by Government Financial Services, Inc., the District's financial advisor. The \$8,811,000 figure for "Total Property Cost" appears in the source documents; the correct total of the amounts shown as included in "Total Property Cost" is \$8,598,538.

<sup>6</sup> Actual interest rate would vary according to the maturity date of certificates. Longer term maturity certificates typically bear higher interest rates than short term maturity certificates. The District's financial advisor assumed interest rates would range from 3.44% up to 4.85% during the thirty year term of the borrowing. Since the time the District's financial advisor estimated the interest cost for this COP financing, a major mortgage banking crisis developed in which many mortgage insurers and bond sureties ceased or dramatically curtailed operations. This has adversely affected both the availability and the cost of long term borrowing by both private and by public borrowers. For the time being interest rates remain relatively low even while lenders have generally restricted new long term debt investment. These general economic developments may operate to make the District's plan to issue COPs to buy or build a major new capital facility unaffordable.

### **ATTACHMENT C: Certificates of Participation**

Certificates of Participation, often referred to as “COPs,” are a standard form of financing agreement whereby a buyer acquires the immediate title and use of an asset and the seller retains a security interest in the asset and the buyer agrees to pay the seller a series of payments equal to the cost of the asset plus interest. Therefore, the transfer of title is conditionally subject to future payments. This is distinguished from an installment sale where the seller retains title until all installment payments are made. In both forms of sale, for federal tax purposes, the Internal Revenue Code treats the asset as owned by the purchaser with payments to

the seller constituting principle and interest; for a governmental purchaser, interest usually is tax-exempt. This term is sometimes used interchangeably with the term tax-exempt lease; however, in California, there is an important distinction between the two (e.g., a lease is constitutionally legal and a conditional sale is not unless it is secured by a special fund.) The District must obtain a supermajority approval of voters to issue bonds. Certificates of Participation may be issued without voter approval. (“Guidelines for Certificates of Participation,” California Debt Advisory Commission, 1993.)

## DAVIS FIRE DEPARTMENT

### EXECUTIVE SUMMARY

An investigation of the Davis Fire Department (DFD) was conducted as a result of citizen complaints to the Grand Jury. Initial inquiry was based on reports of misuse of a DFD facility by off-duty personnel and a difficult work environment influenced by a close alliance between the Fire Chief and Davis Professional Firefighters Local 3494 (Union) and its Board of Directors.

The major complaints investigated by the Grand Jury were: (a) inconsistent promotion practices; (b) a hostile work environment caused by a close relationship between DFD management and the Union and its Board of Directors and unequal support of educational endeavors; (c) drug and alcohol use and the misuse of DFD sleeping facilities by off-duty firefighters; (d) the strained relationship between DFD and the Davis Police Department (DPD) and (e) the appearance of improper political activity.

The Grand Jury, after an extensive investigation, found misuse of a DFD facility; inappropriate relationships between the Union's Board of Directors and DFD management; and inconsistencies in promotional opportunities.

The Grand Jury recommends: (a) the next Fire Chief be someone from outside DFD with no ties to the Union; (b) revise the current promotion testing process to include weighting of scores for each test section and posting of this information in public areas of the firehouses and in promotion announcements; (c) require all personnel read and sign-off on policies relating to discipline and alcohol and drug use and (d) enforcement of all alcohol and drug use policies.

### BACKGROUND

The mission of DFD is to "Protect Lives, Property and the Environment." In fulfilling this mission, DFD performs a number of services in addition to fighting fires. Included in these services are pre-hospital emergency medical care, hazardous material mitigation, fire code interpretation and enforcement, safety inspections, and fire investigations. The DFD 2006/2007 budget was \$9,447,674.

DFD includes three fire stations in Davis: Station 31 (located in downtown Davis), built in 1965; Station 32, built in 1985; and Station 33, built in 1964. Each is staffed with one company captain and at least three firefighters on 24-hour shifts. Firefighters transfer among the three stations. Each DFD firefighter is required to be a certified Emergency Medical Technician I.

The Grand Jury has learned that the incumbent Fire

Chief plans to retire in the next one to two years.

The first formal complaint was received in 2007. The 2006/2007 Grand Jury initiated an investigation but that Grand Jury's term expired before its investigation was completed. The 2007/2008 Grand Jury conducted its own separate investigation.

### APPROACH

The Grand Jury interviewed past and present DFD employees (including the Fire Chief), DPD employees, the City Manager, and concerned citizens. The Grand Jury also reviewed time and attendance, as well as payroll records for the 2007 calendar year; examined pertinent documents in harassment lawsuits filed by employees; and reviewed correspondence, including e-mails, among DFD, DPD, and the City Manager concerning implementation of a new joint 911 call center.

In preparing this report, the Grand Jury has taken special care to maintain the confidentiality of many details of the evidence provided by DFD employees and former DFD employees in order to prevent discovery of their identity and to protect them from possible retaliation.

### DISCUSSION

#### A. Promotion Practices

Promotional criteria are not clear to all DFD firefighters. DFD firefighters generally perceive that being active in Union leadership will lead to promotion, better jobs, and better project or training assignments. Involvement in special projects and education opportunities was noted as a necessary condition to promotion. However, approval and/or selection for these opportunities is inconsistent.

Weights are assigned to various promotion test segments. The Grand Jury discovered these weights are ignored by the Fire Chief when making the final selection. An example is the recent promotion of the Union President to the rank of Captain. The Union President ranked ninth out of ten on the promotion list.<sup>1</sup>

Firefighters who consistently scored high in promotion testing but were never advanced, stopped testing for promotion.

#### B. Hostile Work Environment

During the incumbency of the current Fire Chief, there have been three lawsuits concerning harassment and a hostile work environment. One case was dropped due to procedural deficiency. Two of these cases were

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<sup>1</sup> The Union has had the same president since its founding 22 years ago.



settled out of court; one case for \$280,000 and the other reportedly for between \$300,000 and \$400,000.

A number of DFD firefighters are fearful of retaliation if they speak out against the Fire Chief or the Union. DFD firefighters, both past and present, indicated that those who questioned or challenged the Union in any way would be openly shunned by union members. Retaliation could occur even for inquiring about access to Union bylaws and financial reports. In some cases the Fire Chief would no longer speak to some personnel except for matters of duty. One DFD firefighter was so fearful of retaliation that upon being summoned to testify before the Grand Jury, this individual parked blocks away and walked to the Grand Jury's office so that no one would identify the car in the Grand Jury parking lot and report it to DFD or Union management.

A DFD program still in use was established, expanded and run for a number of years by one DFD firefighter. Despite its success, this program was reassigned to a DFD firefighter who was a member of the Union's Board, allegedly because the first firefighter did not have sufficient experience to run the program. However, the newly assigned firefighter had no related experience or training in this area. The reassignment enhanced the Union Board member's promotion opportunities.

The Fire Chief maintains a close long term friendship with the President of the Union. The Fire Chief's husband, a retired DFD firefighter, is a former Vice President of the Union and continues to maintain his association with the Local Union. Another member of the Board for the Union is a trusted family friend who sometimes provides child care for the Chief. Added together, these relationships present an appearance of cronyism and undue Union influence in the administration of the DFD.

A 33-year veteran DFD firefighter who did not join the Union was denied any recognition of his service or a retirement party. Another firefighter, a former member of the Union who later decided to rejoin, was informed reactivation as a member of the Union was not possible unless dues for the period of non-membership were paid. Membership is not mandatory. All DFD firefighters are now Union members, which may be the result of observing how non-union members have been treated.

A firefighter asked to review his personnel file. On examination, he found three letters of commendation had been removed and a disciplinary letter, of which he was unaware, had been added. Another firefighter who inquired about Union finances in a meeting was accused of being a "union buster" and was ostracized afterward. Often other firefighters had been directed by the Fire Chief not to communicate or eat with a particular member. This isolation has greater consequences than in other

work environments because of the communal nature of the firehouse.

At least one firefighter has not had a performance evaluation in six years. The City of Davis Employee Policy Handbook (page 3, sec. 5.4) indicates that "Each employee will be evaluated at least once a year."

### **C. Misuse of DFD Facility**

It was discovered that some DFD firefighters come to the Station 31 firehouse (located downtown) to sleep while off-duty. It appears that the off-duty DFD firefighters, after drinking in downtown Davis, sometimes "sleep it off" at the firehouse rather than drive home, a practice actively supported by the Fire Chief. While it may be preferable for them to be sleeping in the firehouse rather than driving on the road, the city prohibits "being under the influence during work hours, at the work site, or in uniform." (Section 3.4B of the City of Davis Administrative Policy and Section 7.4 J of the City of Davis Personnel Rules and Regulations). Off-duty DFD firefighters seen intoxicated downtown and known to be sleeping at the firehouse afterward reflect poorly on the DFD and the City.

### **D. Relationship between the DPD and the DFD**

There have been numerous instances of altercations involving DFD firefighters which required police response. One of these incidents was acknowledged by the Fire Chief. Some police officers are hesitant to deal with incidents involving off-duty DFD firefighters because police officers are often dependent on firefighters for assistance in emergency situations.

Another indication of tensions between the DPD and DFD was the lack of cooperation between the departments relating to setting up the new joint 911 Call Center. Tension contributes to DPD uncertainty in dealing with firefighters who become rowdy or are involved in public altercations. The expectation by the DFD of special treatment by the DPD is of concern.

### **E. The Appearance of Undue Union Influence**

Only approximately 80% of DFD firefighters live within the City of Davis. Remarkably, City records reveal nearly all active DFD firefighters (approximately 40 persons) contributed the maximum \$100 amount to several City Council candidates prior to the March 2004 City Council election. Soon after that election, DFD's new 2005 Union contract was negotiated and approved by the City. DFD firefighters wearing elements of their on-duty DFD firefighter uniform, including the DFD logo, distributed political materials and walked Davis voting precincts in support of individual City Council candidates. Political activity by Union members in itself

is not improper. However, it appears that at least some of this local political activism stems from undue influence upon DFD firefighters by DFD management resulting in pressured political contributions to local candidates on the part of some DFD firefighters. No other city employees filed under the City ordinance requiring disclosure of City Council campaign contributions.

A similar unusual pattern of DFD firefighter political contributions to local candidates has occurred with respect to the 2008 City Council election. City Council campaign contribution filings do not reveal any other City of Davis employees contributed to any political candidate running for local office. The Union contract with DFD is again soon due for renegotiation.

## FINDINGS

- F1. Based upon published promotional criteria, the promotion process utilized by the Fire Chief does not result in appointment of the most qualified candidate.
- F2. The close alliance between the DFD administration and the Union leadership is a deterrent to equal opportunities for promotion, education, and service on special projects.
- F3. Working on special DFD committees or projects is essential for promotion of DFD firefighters. Assignment preference is given to active members of the Union Board over those DFD firefighters most qualified or most interested.
- F4. Reimbursed expenses and time off for further education (which is a consideration in DFD firefighter promotion) is granted inconsistently at the discretion of the Fire Chief.
- F5. Incidences of ostracism, harassment, favoritism and shunning, result in a hostile work environment. Two cases against DFD for causing or creating a hostile work environment has resulted in approximate settlement costs of \$600,000.
- F6. DFD firefighter off duty use of DFD sleeping facilities is permitted by the Fire Chief with no apparent advantage to the DFD and no disciplinary action against the DFD firefighters involved.
- F7. The pattern of DFD Union political activities and contributions gives the appearance of possible impropriety.
- F8. The DFD allows influence by the Union to the detriment of department assets and interests.

## RECOMMENDATIONS

- 08-15** Revise the promotion testing and selection process to identify and promote the best qualified

candidates. Post promotion selection criteria in a public area of the firehouse as well as in the announcement of the promotional opportunity.

- 08-16** Develop and publicize criteria for selection to special committees, projects and education opportunities for DFD firefighters.
- 08-17** Publicly post copies of the revised City of Davis Drug and Alcohol Administrative Policy, 3.4B in the City of Davis Personnel Rules and Regulations handbook. Further, require all current and new DFD personnel to read and sign-off that they have read these documents.
- 08-18** All City and DFD policies related to drug and alcohol use should be enforced.
- 08-19** The successor Fire Chief should come from outside DFD with no personal ties to the DFD Union, in order to restore a balanced relationship between DFD administration and the Local Union and its Board.

## REQUEST FOR RESPONSES

Pursuant to California Penal Code section 933.05, the Grand Jury requests a response as follows:

*From the following individuals:*

- Fire Chief, City of Davis Fire Department (Recommendations 08-15 through 08-18)
- City Manager, City of Davis (Recommendations 8-15 through 8-19)

*From the following governing bodies:*

- Davis City Council (Recommendations 8-15 through 8-19)

## ESPARTO COMMUNITY SERVICES DISTRICT

### EXECUTIVE SUMMARY

The Esparto Community Services District (CSD) is responsible for providing street lighting, sewer, and water services to the residents of Esparto. This task is complicated by the aging infrastructure of the system and expanding population of the area.

In response to citizens' complaints, an investigation of CSD was conducted by the 2007/2008 Yolo County Grand Jury. The complaints centered on the performance of CSD personnel and the Board of Directors.

Based on numerous interviews and review of voluminous materials, the Grand Jury recommends improvements be made to CSD job classifications, work hours, and accounting procedures. In addition, the

Grand Jury recommends improvements in the record keeping and accountability measures of the CSD Board of Directors. The Grand Jury also recommends a water audit be performed.

## **BACKGROUND**

California Penal Code 925 provides: "The Grand Jury shall investigate and report on the operations, accounts and records of the officers, departments or functions of the county including those operations, accounts and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts." Pursuant to the statute, the 2007/2008 Yolo County Grand Jury conducted an investigation of the Esparto Community Services District (CSD), having received several complaints regarding the agency. The complaints focused on the qualifications of CSD personnel, mishandling of payments, questionable accounting practices, and abuse of sick leave and vacation time.

Esparto is a small but growing community with a population of 1,858 people, per the 2000 United States Census Bureau. CSD serves this community by providing water, sewage treatment, and street lighting.

CSD is managed by a General Manager/Superintendent, who reports directly to the Board of Directors. CSD currently has five employees, including a part time Fiscal Services Assistant, a full time Administrative Assistant, two full time Utility System Operators, and the General Manager/Superintendent.

The oversight of CSD is the duty of a five-person Board of Directors. Each member of the Board of Directors is elected by the community to serve a four-year term. Unfilled seats on the Board can be filled without an election by an appointment made by the Yolo County Board of Supervisors.

In response to citizen complaints, the Grand Jury had previously investigated CSD during 1996/1997, 1997/1998 and 1999/2000 terms. These earlier investigations focused primarily on the conduct of the Board of Directors, compliance with the Ralph M. Brown Act, and adherence to the Esparto Policy Manual. Recommendations by prior Grand Juries and the corresponding responses can be found in the final reports of the aforementioned years.

## **APPROACH**

During their 2007/2008 term, members of the Yolo County Grand Jury conducted numerous interviews of past and present employees of CSD, past and present members of the Board of Directors, Yolo County employees, and residents of Esparto. Members of the Grand

Jury also reviewed materials provided by CSD and from other interviewees. The full list of materials reviewed can be found in Attachment A: Meeting Minutes.

## **DISCUSSION**

### **A. CSD Personnel**

As part of its investigation, the Grand Jury looked into the job descriptions, shift hours, and salary schedules for CSD personnel. Per the Board's Manual of Policies, Policy Number 2300, the General Manager/Superintendent is "...responsible for the overall operation and management of the water distribution and wastewater treatment distribution and plant systems of the District along with other workload obligations of the District... manages and supervises all employees of the Esparto Community Services District."

The General Manager/Superintendent is a contract employee. The term of the contract began on February 13, 2006 and will terminate on February 13, 2011. Per the Employment Agreement between CSD and the General Manager/Superintendent, the General Manager/Superintendent "...shall have final decision-making authority to hire and manage...staff subject to budgetary limits established annually by the District Board."

When the current General Manager/Superintendent was hired, a determination was made to update the positions and job descriptions for CSD personnel. According to the General Manager/Superintendent, the update was intended to allow for future expansion of CSD staff. All of the job descriptions except one were adopted on March 6, 2006; the Administrative Assistant description was adopted in October 2006.

Prior to the update, the descriptions for employees of CSD, as set forth in the District Board's Manual of Policies, provided for only three positions: General Manager/Superintendent, Maintenance Person, and Office Secretary/Customer Service Representative.

The revised job descriptions, created by the General Manager/Superintendent, provide for seven other job classifications. According to the official job descriptions, the positions of Administrative Assistant, Fiscal Services Associate, and Fiscal Services Assistant have minimal requirements. The positions of Utility Systems Operators I, II and III, as well as the Field Superintendent have special requirements for various levels of certification as operators for water distribution and wastewater treatment plants. Currently there are only two Utility Systems Operators; the three levels for the Utility Systems Operators allows for advancement for the staff. The positions of Fiscal Services Associate and Field Superintendent are not filled. The General Manager/Superintendent performs the functions of Field Superintendent. For summaries of job descriptions of all of the positions and the



corresponding salary schedules, refer to Attachment B. (Full texts are available from CSD.)

The CSD office is open to the public from 8:00 a.m. to 4:00 p.m., Monday through Friday. CSD personnel work varying shifts, depending on their job classifications. The General Manager/Superintendent's regular work shift is from 6:30 a.m. to 3:00 p.m., while the Administrative Assistant's shift is from 7:00 a.m. to 4:00 p.m. and the Fiscal Services Assistant's shift is from 8:00 a.m. to 3:00 p.m. The Utility Systems Operators work from 6:30 a.m. to 4:00 p.m., with alternating Fridays off.

Staff time sheets are prepared by the Administrative Assistant and then approved and signed by the General Manager/Superintendent.

### **B. CSD Infrastructure Improvements**

In June 2001, CSD applied for a United States Department of Agriculture (USDA) loan for much needed improvements to its infrastructure. Prior to the approval of that loan, the infrastructure facilities under CSD oversight were cited by the State Health Department as needing improvement. In 2005, the Safe Drinking Water State Revolving Fund (SRF) updated their project priority list to include improvements to the Esparto water and sewer infrastructure. In 2006, one of the new General Manager/Superintendent's first tasks was to revise the USDA loan application. He has been responsible for administering the construction of a storage and booster facility, (used in applications where the normal system pressure is low and needs to be increased), a new well and transmission mains as required by the SRF. The original contract amount approved was \$547,751, with a completion date of August 30, 2007 (120 days). Cost overruns as a result of contract change orders have increased contract total costs to \$1,051,310 before any funds have been received from the USDA loan (which will total around \$5.3 million).

The CSD Board of Directors had been approving work orders and bills presented to them over a period of months. It is not clear from board meeting minutes if they were informed that over \$400K of the expenditures approved were actually cost overruns. Based on the minutes of the December 2007 meeting, the Board became aware they had been approving overruns. At that point some members balked, refusing to approve the remaining \$61,000 in expenditures. Contract change orders totaled \$507,559, boosting the original contract amount by 93%.

As a condition of the USDA loan process, CSD had to have an independent audit and increase its fees for services to Esparto residents. The audit for FY 2005-2006 was completed at the end of June 2006 by Bartig, Basler & Ray, LLP, a Galina LLP Company. The May 16, 2007

letter accompanying the Management Report cited "...a few matters that are opportunities for strengthening internal controls..." One of the items cited was Segregation of Duties in Accounts Receivable Finding Index Number 06-1 recommends "...that incompatible duties regarding the handling of cash accounts receivable be segregated among two people." The investigation noted that this should not be a difficult requirement to meet.

The final action to increase the fees by 43% was taken by the CSD and the Board of Directors in January of 2008. Whether the loan and the rate raise will cover all the necessary infrastructure improvements remains to be seen, particularly if change orders resulting in cost overruns are not more carefully monitored by the General Manager/Superintendent, Board of Directors and Engineering Company Project Manager.

### **C. CSD Accounting Practices**

As a result of public complaints, the Grand Jury evaluated CSD's procedure for processing billings. Currently, the billings are handled by the Fiscal Services Assistant and are logged by computer. Once the Administrative Assistant has verified the billings, they are approved and signed by the General Manager/Superintendent. In the course of the investigation, it was found that the bank had made corrections to errors in the deposit amounts seven times between January 2007 and November 2007.

The Grand Jury noted a report of burglary at the CSD offices made by the General Manager/Superintendent on November 16, 2007. Based on audio recordings of that report, obtained from the Yolo Emergency Communications Agency, the Grand Jury learned the General Manager/Superintendent had made allegations against CSD staff for stealing money from CSD and had requested all employees be fingerprinted by the Sheriff's Department. The General Manager/Superintendent rescinded the report later the same day.

Discrepancies in the handling of "petty cash" were investigated. At their April 11, 2007 meeting, the Board of Directors established the amount to be maintained in the "cash drawer." Cash box reimbursement vouchers were done monthly between January 2007 and June 2007, but only one reimbursement voucher was submitted in December 2007 for July through December.

### **D. CSD Board of Directors**

Members of the CSD Board of Directors serve four-year terms. A president and vice president are elected during the Annual Organization Meeting at the Board's regular meeting in December. It was noted of the current Board that two members' terms will expire in December 2009 and three members' terms will expire in December 2011.

The current method of advertising vacancies on the Board is to place a notice on the bulletin board at the CSD office and in the *Valley Voice* and the *Daily Democrat* newspapers. It was reported by several witnesses that the Board of Directors has had difficulty filling vacancies and in the past has had to rely on the Yolo County Board of Supervisors to appoint members.

While reviewing recordings of meetings of the CSD Board of Directors, the Grand Jury discovered that large portions of the recordings are inaudible and the corresponding meeting minutes do not accurately reflect the discussions. A review of the meeting minutes for June 13, 2007 revealed that a request for a water audit had been made as a result of a complaint by the public. CSD's response was that there was not enough staff to perform the audit and the request generated no further action by CSD or the Board of Directors.

### FINDINGS

- F1. CSD staff has not been at their assigned places of duty during the hours of their shift. Corresponding time sheets did not reflect any sick leave or vacation time taken.
- F2. Both new and revised job classifications allow for the overlapping of job functions without an increase in responsibilities or skills required. The classifications for office staff are assigned pay scales at the discretion of the General Manager/Superintendent without direct association to an increase in responsibilities or education.
- F3. Occasionally customer payments, in the form of personal checks, have been lost. Some deposits were mishandled or lost. The General Manager/Superintendent does not verify every transaction and relies heavily on the Administrative Assistant's verification of deposits and billings.
- F4. There were no itemized lists accompanying those deposits containing errors. The bank tallied the deposits and corrected the errors made by CSD.
- F5. The cash box log shows that the balance of the cash box was maintained monthly at the established amount until June 27, 2007. The amount was not reconciled again until December 12, 2007.
- F6. Several members of the CSD Board of Directors have been serving in that capacity for many years. The current chairperson has been on the board for eight years and has been serving as chairperson for all but a couple of months.
- F7. The minutes of the Board of Directors meetings are grammatically flawed and are inaccurately paraphrased when compared to the audible recordings.
- F8. The request for a water audit per the meeting minutes from June 13, 2007 was never addressed.

### RECOMMENDATIONS

- 08-20** In order to oversee the office accounting procedures and other internal controls, the General Manager/Superintendent should work the same hours as the office staff.
- 08-21** The General Manager/Superintendent should implement a method of time keeping for staff. Alternatives might include an automatic time keeping system or a computerized method to eliminate the possibility of unsupervised staff claiming unwarranted time for compensation. It is recommended the General Manager/Superintendent require pre-approval of all vacation and/or personal time to assure the staff is properly accounted for.
- 08-22** The General Manager/Superintendent should revise the classifications of the job descriptions for CSD personnel. Job descriptions should provide concise information on the job skills required, and reflect increases in responsibility to justify each position. The General Manager/Superintendent should seek guidance from the Yolo County Department of Human Resources in the development of the job descriptions.
- 08-23** Given the number of reoccurring accounting errors, the General Manager/Superintendent should evaluate the current methods of internal controls, take more responsibility in the accounting process, and routinely check the work of the office staff to ensure accuracy.
- 08-24** CSD staff should include list tapes with daily deposits to the bank.
- 08-25** The CSD Board of Directors should hire an independent auditor to complete a thorough financial audit.
- 08-26** The cash box should be balanced and reconciled monthly at the amount specified by the Board of Directors. It is recommended that the cash box amount be reduced by half, as it is apparent the current amount is beyond what CSD needs on a monthly basis.
- 08-27** The Board of Directors should rotate the responsibility of the chair person amongst members every two years. This will help the Board of Directors maintain more objectivity and accountability in their responsibilities.
- 08-28** The Board of Directors should consider advertising vacancies on the Board by including notices

in the monthly billings in addition to postings with local agencies and businesses.

- 08-29** The Board of Directors should insist their meetings are recorded in a more effective and accurate manner and eliminate paraphrasing of the minutes by the Clerk to the Board. The Board of Directors should take care to review the minutes before approving them as being clear, concise and correct.
- 08-30** CSD should perform an internal water audit.
- 08-31** The 2007/2008 Yolo County Grand Jury recommends that the 2008/2009 Yolo County Grand Jury monitor the CSD.

### **REQUEST FOR RESPONSES**

Pursuant to California Penal Code section 933.05,

the Grand Jury requests responses as follows:

*From the following individual:*

- General Manager/Superintendent, Esparto Community Services District (Recommendations 08-20 through 08-24)

*From the following governing bodies:*

- Board of Directors, Esparto Community Services District (Recommendations 08-25 through 08-30)

### **BIBLIOGRAPHY**

- 1999-2000 Yolo County Grand Jury Report, June 2000 (Investigation for violations of the Brown Act)
- 1997-1998 Yolo County Grand Jury Report, June 1998 (Investigation for violations of the Brown Act)
- Esparto Policy Manual (Manual of Policies)

**APPENDICES** (Esparto Community Services District)

**ATTACHMENT A: Meeting Minutes**

The following lists the meeting minutes and audio recordings of the meetings of the Board of Directors of CSD that were reviewed as part of this investigation. The material was supplied as part of a subpoena served to the General Manager/Superintendent.

<u>Meeting Date</u>	<u>Type of Meeting</u>	<u>Audio Recording</u>	<u>Written Minutes</u>
June 14, 2006	Regular Monthly	1 tape	Yes
July 12, 2006	Regular Monthly	1 tape	Yes
July 26, 2006	Regular Monthly	1 tape	Yes
August 9, 2006	Regular Monthly	1 tape	Yes
September 13, 2006	Regular Monthly	2 tapes	Yes
October 5, 2006	Special Meeting	1 tape	Yes
October 10, 2006	Regular Monthly	1 tape	Yes
November 8, 2006	Regular Monthly	1 tape	Yes
December 13, 2006	Regular Monthly	1 tape	Yes
December 21, 2006	Special Meeting	1 tape	Yes
January 10, 2007	Regular Monthly	None	Yes
February 7, 2007	Special Meeting	1 tape	Yes
March 7, 2007	Regular Monthly	1 tape	Yes
March 14, 2007	Special Meeting	1 tape	Yes
April 11, 2007	Regular Monthly	2 tapes	Yes
April 30, 2007	Special Meeting	1 tape	Yes
May 9, 2007	Regular Monthly	2 tapes	Yes
June 13, 2007	Regular Monthly	2 tapes	Yes
June 25, 2007	Special Meeting	1 tape	Yes
July 11, 2007	Regular Monthly	1 tape	Yes
July 25, 2007	Regular Monthly	None	Yes
August 2, 2007	Special Meeting	1 tape	Yes
August 8, 2007	Regular Monthly	2 tapes	Yes
September 12, 2007	Regular Monthly	2 tapes	Yes
September 27, 2007	Regular Monthly	2 tapes	Yes
October 10, 2007	Regular Monthly	2 tapes	Yes
October 24, 2007	Regular Monthly	1 tape	Yes
November 14, 2007	Regular Monthly	2 tapes	Yes
December 5, 2007	Regular Monthly	2 tapes	Yes
December 12, 2007	Regular Monthly	3 tapes	Yes
December 20, 2007	Special Meeting & Workshop	2 tapes	Yes

## ATTACHMENT B: Job Description Summaries

The information was summarized from the Esparto Policy Manual (Manual of Policies) or obtained from the General Manager/Superintendent of CSD, including: current job descriptions for the fiscal services assistant, fiscal services associate, administrative assistant, field superintendent, and the system utility operators I, II and III; previous job descriptions for the general manager/superintendent, the office secretary/customer service representative, and the maintenance person; current salary schedule for all of the non-exempt staff of CSD.

### Fiscal Services Assistant

The Board of Directors adopted the description for the fiscal services assistant on March 6, 2006, defined as follows: “Under general supervision to perform a variety of account and statistical record keeping work in connection with the development, maintenance, and processing of District fiscal and statistical records; to provide customer service for utility billings; to perform general office support assignments; and to do related work as required.” This is the first level in the fiscal services class.

This position requires “one year of previous work experience performing fiscal support and customer service work.” There are no special requirements for this position.

The description for the fiscal services assistant specifically states that this position reports to the general manager/superintendent. This position is not a supervisory class.

The position pays between \$14.28 per hour up to \$17.02 per hour per the approved Merit Salary Schedule effective January 10, 2007.

### Fiscal Services Associate

The Board of Directors adopted the description for the fiscal services associate on March 6, 2006, defined as follows: “Under general supervision to perform a variety of the most complex, technical, and specialized account and statistical record keeping work in connection with the development, maintenance, and processing of District fiscal and statistical records; to have specialized responsibility for billings, payables, receivables, payroll, or benefits; to provide customer service; to perform general office support assignments; and to do related work as required.” This position is responsible for the day-to-day fiscal record keeping of payables, receivables, payroll, billing or benefits.

This position requires “two years of previous work experience performing fiscal support work at a level

comparable to Fiscal Services Assistant with Esparto Community Services District.” There are no special requirements for this position.

The description for the fiscal services assistant specifically states that this position reports to the general manager/superintendent and the “District Board.” This position is not a supervisory class.

The position pays between \$15.74 per hour up to \$18.76 per hour per the approved Merit Salary Schedule effective January 10, 2007.

### Administrative Assistant

The Board of Directors adopted the description for the administrative assistant on October 10, 2006, defined as follows: “Under general supervision, to coordinate and perform a variety of administrative support for the General Manager, Board of Directors, Finance, Billing and Future Planning; to perform difficult and specialized office support, information gathering, information preparation, and public relations assignments; and to do related work as required.” This position also serves as Clerk to the Board.

This position requires “three years of increasingly responsible work experience performing a variety of office and administrative support, including substantial experience in a position requiring frequent public/customer contact.” There are no special requirements for this position.

The administrative assistant reports to the general manager/superintendent and to the Board of Directors. This position is listed as a supervisory class and supervises the fiscal services staff.

The position pays between \$24.69 per hour up to \$30.01 per hour per the approved Merit Salary Schedule effective January 10, 2007.

### Utility Systems Operator I

The Board of Directors adopted the description for the utility systems operator I on March 8, 2006, defined as follows: “Under general direction, to learn and perform basic maintenance, operations, and repair work on the District’s water distribution system, including pumps, mains, chlorinators, meters, and other equipment; to learn and perform basic maintenance, operations, and repairs on wastewater treatment facilities; and to do related work as required.”

This position requires “one year of experience in maintenance and construction work and background

*(Attachment B continues on next page)*



**ATTACHMENT B: (Job Description Summaries – continued)**

which demonstrates the capacity to obtain State of California Grade I certification for Water Distribution Operator and Wastewater Treatment Operator.”

The special requirements for this position are as follows: California Driver’s License; California Water Distribution Operator I Certification; California Grade I Wastewater Treatment Plant Operator Certification; and must have one of the certifications at appointment and gain the other in 18 months of appointment.

The utility systems operator I reports to the general manager/superintendent. This position is not a supervisory class.

The position pays between \$21.32 per hour up to \$25.89 per hour per the approved Merit Salary Schedule effective January 10, 2007.

**Utility Systems Operator II**

The Board of Directors adopted the description for the utility systems operator II on March 8, 2006, defined as follows: “Under general direction, to perform a variety of maintenance, operations, and repair work on the District’s water distribution system, including pumps, mains, chlorinators, meters, and other equipment; to perform maintenance, operations, and repairs, maintains and operates on wastewater treatment facilities; and to do related work as required.”

This position requires “one year of experience in operation. Testing, maintenance, repair, and construction of water distribution, wastewater treatment, and pumping systems at a level equivalent to Utility Systems Operator with the District.”

The special requirements for this position are as follows: California Driver’s License; California Water Distribution Operator I Certification; and California Grade I Wastewater Treatment Plant Operator Certification.

The utility systems operator II reports to the general manager/superintendent. This position is not a supervisory class.

The position pays between \$22.39 per hour up to \$27.22 per hour per the approved Merit Salary Schedule effective January 10, 2007.

**Utility Systems Operator III**

The Board of Directors adopted the description for the utility systems operator II on March 8, 2006, defined as follows: “Under general direction, to perform a variety of the more complex maintenance, operations, and repair work on the District’s water distribution system, including pumps, mains, chlorinators, meters, and other equipment; to perform maintenance, operations, and repairs, maintains and operates on wastewater treatment facilities; and to do related work as required.”

This position requires “two years of experience in operation, testing, maintenance, repair, and construction of water distribution, wastewater treatment, and pumping systems at a level equivalent to Utility Systems Operator with the District.”

The special requirements for this position are as follows: California Driver’s License; California Water Distribution Operator II Certification; and California Grade II Wastewater Treatment Plant Operator Certification.

The utility systems operator III reports to the general manager/superintendent. This position does not indicate that if it is a supervisory class. The following statement is provided instead: “Some work coordination and training may be provided for other staff assigned to Utility System maintenance, operations, and repairs.”

The position pays between \$23.51 per hour up to \$28.23 per hour per the approved Merit Salary Schedule effective January 10, 2007.

**General Manager/Superintendent**

Per the District Board’s Manual of Policies, Policy Number 2300, the job description for the general manager/superintendent is as follows: “Responsible for the overall operation and management of the water distribution and wastewater treatment distribution and plant systems of the District along with other workload obligations of the District...Manages and supervises all employees of the Esparto Community Services District.”

The general manager/superintendent is a contract employee. The term of the contract began on February 13, 2006 and terminates on February 13, 2011.

Per the Employment Agreement between CSD and the general manager/superintendent, the general manager/superintendent “...shall have final decision-making authority to hire and manage...staff subject to budgetary limits established annually by the District Board.”

The special requirements for this position are as follows: California Driver’s License; attend District Board meetings; basic computer skills; submit to pre-employment testing to determine general aptitude and suitability; able to secure, during probationary work, a wastewater treatment operator’s certificate (Level One, minimum) prior to permanent appointment to position; and able to secure other required licenses and/or certificates as required by agencies of the State of California.

The position of the field superintendent is not filled and is currently combined with the general manager. The position pays between \$24.69 per hour up to \$30.01 per hour per the approved Merit Salary Schedule effective January 10, 2007.

*(Attachment B continues on next page)*

**ATTACHMENT B: (Job Description Summaries – continued)**

**Previous Position Descriptions**

The previous descriptions for employees of CSD, as set forth in the District Board's Manual of Policies, provided the following three position descriptions: general manager/superintendent; maintenance person; and office secretary/customer service representative.

The general manger/superintendent description remains unchanged, however the current general manager/superintendent does not have any responsibility to the Esparto Fire Department.

The duties and responsibilities of the office secretary/customer service representative, per the District Board's Manual of Policies Policy Number 2360, was adopted on September 17, 2001, defined as follows: "To perform a variety of highly responsible, confidential and complex clerical, secretarial and administrative duties for the General Manager/Superintendent. To perform the financial duties pertaining to the budget, utility billing and collection of finances of the District."

This position required "three or more years of increasingly responsible clerical, secretarial, account experiences. Work involving frequent contact with the public.

Experience working with computer operations and data processing."

This position requires that the candidate be a "high school graduate with additional specialized secretarial, account and business training." An undated description was found with a page number of 107 indicating that a "...degree from a Business or Community College is highly recommended."

The duties and responsibilities of the maintenance person, per the District Board's Manual of Policies Policy Number 2310, was revised on June 9, 2004 and is defined as follows: "Assists the Superintendent with maintenance and custodial duties of the wastewater treatment distribution and plant systems of the District, and other workload obligations of the District."

This position listed that "prior experience in water and wastewater related fields desirable." It requires that the candidate be in possession of "...D1, T1 certificates from the State of California Department of Health Services and a Grade 1 certificate from the State of California State Water Resources Control Board." Also must have a "...California Motor Vehicle License."

## **YOLO COUNTY OFFICE OF EMERGENCY SERVICES**

### **EXECUTIVE SUMMARY**

The Yolo County Office of Emergency Services (OES) facilitates coordination among local agencies and marshals supplies and equipment needed to respond to declared emergencies within Yolo County. It also disseminates information to Yolo County residents to minimize misinformation and confusion during an emergency. OES invests the majority of its resources in writing and preparing grant applications in an effort to obtain for Yolo County maximum federal and state funding of emergency services planning and response by Yolo County agencies. Most funds obtained by OES grant applications are for specific equipment or equipment upgrades and training of traditional emergency response agencies, such as the Sheriff's department and fire fighting departments and districts within Yolo County.

This report recommends the Yolo County OES: (a) continue to develop its new web site to be of maximum aid to Yolo County residents seeking information and guidance in anticipation of and during an emergency; (b) perform regular readiness inspections and testing of key communication facilities; (c) periodically report on the status of training and readiness of local agencies to fulfill their respective responsibilities in a declared emergency; (d) quickly conclude investigation of emergency notification systems and make implementation of such a system a top emergency services priority; (e) accelerate resolution of the deficiencies of the county-wide emergency services radio net by recommending adoption of a radio communications system useable by all emergency responders throughout Yolo County without the requirement of radio frequency remodulation or relays; (f) train appropriate county personnel in emergency response procedures and accelerate adoption of emergency situation management software for use on Emergency Operations Center (EOC) computers; and (g) incorporate meaningful communication capabilities and onsite resources into the EOC.

### **BACKGROUND**

Under California Penal Code 925, the Grand Jury investigates and reports on the operations, accounts, and records of the officers, departments, or functions of the county including those of any district within the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts. Pursuant to that statute, the Grand Jury conducted an investigation of the Yolo County Office of Emergency Services (OES).

Yolo County OES coordinates county, city and local

agency activity within Yolo County during declared emergencies. State law groups all 58 California counties into three OES administrative regions to facilitate management, operations, program administration and coordination of information and resources among jurisdictions. The three regions are: Coastal, Inland, and Southern. State law and regulations also create six regions for the sharing of resources through a system of mutual aid among counties within a region and among the regions.

Each of the three administrative regions assists with the administrative oversight of the mutual aid regions within its jurisdiction. The mutual aid regions are intended to provide for the effective application and coordination of aid and other emergency related activities. The Yolo County OES is part of the Inland Administrative Region and Mutual Aid Region IV.

### **APPROACH**

The Grand Jury interviewed Yolo County and other local officials responsible for emergency services planning, including OES employees, managers of emergency services planning at the University of California, Davis, and the City of Woodland, as well as senior officers of the Yolo County Sheriffs Department and City of Davis Fire Department. Grand Jury members also toured the OES Emergency Operations Center (EOC) and, as part of its investigation, were provided access to planning documents and scenarios developed or maintained by the OES at the EOC. The Grand Jury also reviewed OES budget data for fiscal years 2006/2007 and 2007/2008, and conducted research into the California Emergency Services Act and the California Disaster Assistance Act.

### **DISCUSSION**

1. The OES is responsible for coordinating Yolo County's preparation for and response to declared emergencies and disasters. The OES is dedicated to four primary functions relating to emergency services planning and preparation. The primary functions are: operations, planning, logistics and finance. The OES staff consists of two professional emergency planning persons, including the Manager of Emergency Services, and one administrative assistant. The Yolo County Administrator serves as the Director of Emergency Services and reports to the Yolo County Board of Supervisors.
2. Among the four primary functions of the OES, finance matters engage the most time and attention. OES initiates applications for grant monies, mostly under federally funded programs of the federal Homeland Security Agency, and administers the grants obtained. Finance related activity is the single largest segment of OES activity. According to OES professional staff,



nearly one half of the professional personnel resources of OES are devoted to this activity. Approximately 65% of the money appropriated to the OES by Yolo County is reimbursed by federal and state agencies to Yolo County. Examples of allocation of recent successful grant applications include: a mobile command vehicle and SWAT team equipment for the Yolo County Sheriffs Office; aid to the West Sacramento bomb response unit; and training for hazardous materials response.

3. Among the largest current challenges identified by managers of the various local emergency services offices interviewed are: lack of an adequate citizen notification and warning system<sup>1</sup>; lack of an effective and reliable inter-agency radio communication system; and insufficient training of other Yolo County departments and staff.
4. The investigation disclosed local office of emergency services managers hold differing assessments of "most likely" disaster scenarios. Consensus among these managers appears to settle upon flood, brush fires, hostage taking and hazardous substance spills as most likely. Specific advance planning for coordination of emergency services is at a generalized level only. Interagency training and practice exercises among agencies having a role in disaster response are infrequent and when attempted are limited in scope. Yolo County Sheriff, city police and fire departments occasionally conduct complementary training and coordination exercises among themselves independently of OES.
5. OES facilitated exercises may include several types of drills. A table top drill is a facilitated discussion about a hypothetical emergency situation. A functional drill includes performing some of the actions required during an emergency. A full scale exercise is a fully simulated emergency situation. OES has participated with other agencies in a full scale exercise but has not planned, performed or coordinated a full scale exercise. The most recent exercise was a July 2007 functional drill simulating an event involving the Monticello Dam.
6. One of the major responsibilities of OES is to provide information to the public during emergencies. An automated dialing system that calls residents and plays a pre-recorded message to notify residents about emergencies was purchased several years ago

but is now considered obsolete. The current auto-dialing system is inadequate because it can only dial phone numbers which are published in conjunction with a physical address. This is due to increased use of unlisted phone numbers, publication of phone numbers without an associated physical address, the portability of land line telephone numbers, and the shift from land line to cell phone use by many Yolo County residents.

7. OES has recently established a web page, but it is not yet adequately developed as an effective source for Yolo County residents seeking guidance and information relating to health and safety in emergency situations.
8. The severe January 2008 windstorm in Yolo County and surrounding jurisdictions demonstrated limitations of, and serves as a caution against total reliance upon, current Yolo Emergency Communication Agency (YECA) radio communication capability. Failures of emergency electrical power generators during that episode led to the inability of both YECA and the secondary back up agency, the City of Davis Police Department, to handle 911 calls. Inadequate preventive maintenance and inspection programs resulted in YECA back up generators being inoperable. The Emergency Operations Center (EOC) was not activated as a response to the January 2008 windstorm. However, radio communications of the EOC are dependent upon the YECA and therefore are of concern in evaluating the capability of the EOC.
9. Since 1994, the EOC has been activated approximately 10 times. The EOC was last activated during the Zamora fire in September 2006.
10. OES responsibilities include outlining and updating emergency response plans for use during declared disasters and encouraging agencies within Yolo County to develop their own disaster response plans.
11. The operations function of OES is focused through the EOC where work space for traditional emergency response agencies, such as county sheriff and health departments, local police and fire departments, county public information officer, a message center, a YECA representative, and a call center to answer calls from and provide pertinent up to date information to callers during a declared emergency. Space is also provided at the EOC for emergency relief organizations such as the American Red Cross and for the Yolo County Department of Social Services.
12. No local agency emergency services director within Yolo County has authority to direct the operations

<sup>1</sup> UCD OES, due to the availability of reliable contact information of students, faculty and staff may be close to recommending an automatic messaging system utilizing cell phone numbers and email addresses of its constituents.

of or to supersede the authority of any other local agency emergency services director. Effective coordination of disaster response planning is dependent upon the cooperation of each agency.

13. The EOC is activated only during times of emergency as determined by the Yolo County Administrator and delegated to the OES Manager. The OES facilitates coordination of emergency services response among local agencies and communications with state emergency services. The OES does not serve as a command structure and has no command authority of its own.
14. The EOC is equipped for use during declared emergencies. Internet linked computers are used for communication, data storage and retrieval and for documentation purposes. Specialized crisis management and communication software for EOC computers have not yet been procured.
15. At this time, none of the Yolo County or other local disaster response agencies radio communication equipment is compatible with all county and other local emergency response organizations. During a declared emergency a very limited number of handheld radios on a local emergency response frequency are available for use at the EOC. These handheld two way radios are required because local agencies within Yolo County do not operate on frequencies which allow direct communication or coordination and lack modern radio equipment capable of switching frequencies to effect direct inter-agency communication.
16. YECA was created to provide reliable county-wide emergency communication, but that system achieves inconsistent and spotty radio coverage in some parts of Yolo County. Presently inter-agency radio communication is facilitated by a truck mounted radio frequency remodulation computer operated by the Yolo County Sheriffs Department; but its effectiveness is limited by its range and the large geographic coverage required.

## FINDINGS

- F1. Although it has recently established an internet web page, the Yolo County OES has not yet fully exploited its new internet presence.
- F2. The January 2008 windstorm, while not declared a disaster, exposed weakness in readiness inspection and testing routines relating to emergency radio communications for both the YECA and the City of Davis Police department.
- F3. Yolo County OES has initiated very few practice or

training exercises involving other county agencies, cities, special districts or volunteer groups.

- F4. The present system for automated communication to residents within specific threatened areas of Yolo County during emergency or declared disaster situations is generally ineffective and out of date.
- F5. Yolo County lacks compatible radio communications among county and local emergency response agencies. The YECA experiences “dead zones” where emergency radio communication between emergency responders and the YECA centralized broadcast facility is often not possible. This has the potential of placing emergency response personnel at unnecessary risk and isolates some residents during times of emergency.
- F6. The computers of the EOC lack software applications designed for emergency and disaster response management.
- F7. According to OES staff, the Yolo County OES lacks the manpower to address a significant portion of its responsibilities in that the quest for grants and out-of-county funding sources absorbs the largest portion of the time of the OES professional staff. The exercise and evaluation responsibilities of OES have been insufficiently addressed due to insufficient budget and personnel resources.

## RECOMMENDATIONS

- 08-32 OES should further develop its web page to make it a more effective and timely source of guidance and information for Yolo County residents, with links to other agencies and resources directly relating to emergency health and safety guidance. Such information and guidance should be regularly updated to reflect changes in relevant information and internet links.
- 08-33 The OES web page should be utilized as an important method of disseminating specific information to Yolo County residents during emergencies and declared disaster situations.
- 08-34 OES should spearhead implementation of routine and thorough readiness inspections and tests of key communication facilities by the police and fire protection agencies within Yolo County to prevent future failure of emergency communication networks and other crucial equipment. OES should consider developing a cooperative cross check of readiness by one agency with other agencies serving similar missions within Yolo County, or where more appropriate, with similar agencies from other neighboring jurisdictions.
- 08-35 The OES should ensure sufficient and appropriate training, functional drills and tabletop exer-

cises to prepare local agencies for emergencies deemed most likely to occur.

- 08-36 The OES should procure an updated automated telephone dialing system to quickly issue warnings and related information important to Yolo County residents on a targeted notification area basis.
- 08-37 Yolo County should promptly address the lack of adequate countywide radio communication capability among emergency response agencies and relevant special districts and cities within Yolo County during emergency and disaster situations.
- 08-38 The capabilities of the EOC to effectively coordinate interagency disaster response and relief should be fleshed out by implementation of appropriate software applications and more meaningful communication capabilities within the EOC.

### REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Yolo County Grand Jury requests responses as follows:

*From the following individuals:*

- Director of Emergency Services, Yolo County Administrator (Recommendations 08-32 through 08-38)
- Manager of Emergency Services, Yolo County Office of Emergency Services (Recommendations 08-32 through 08-38)

*From the following governing bodies:*

- Yolo County Board of Supervisors (Recommendations 08-32 through 08-38)

### BIBLIOGRAPHY

- Emergency Management in California, Governor's Office of Emergency Services. October 2003. [http://www.oes.ca.gov/Operational/OESHome.nsf/PDF/EMGuide/\\$file/EMGuide.pdf](http://www.oes.ca.gov/Operational/OESHome.nsf/PDF/EMGuide/$file/EMGuide.pdf)
- Changes in Yolo County Office of Emergency Services, May 23, 2006 Press Release. <http://www.yolocounty.org/docs/press/Change-in-Emergency-Services.htm>
- Yolo Appoints Emergency Services Manager, May 2, 2006 Press Release. <http://www.yolocounty.org/docs/press/OES%20Manager%20Appointed.htm>
- "Officials call for help with 911 center," March 26, 2008. The Davis Enterprise
- 2007-2008 Yolo County Budget recommendation, Office of Emergency Services

- California Emergency Services Act, California Government Code 8550 et seq
- California Disaster Assistance Act, California Government Code 8680 et seq

## DUNNIGAN HILLS SPECIAL AGRICULTURE DISTRICT Investigation into the Controversy

### EXECUTIVE SUMMARY

In response to written citizen complaints and heated public discourse concerning the matter, the 2007/2008 Yolo County Grand Jury investigated alleged violation of the Brown Act by the Board of Supervisors in connection with actions of the Board regarding a Dunnigan Hills Special Agriculture District at its July 17, 2007 meeting. The Grand Jury also considered whether special legal counsel to the Board of Supervisors acted in conflict with Professional Rules of Conduct regulating California lawyers by representing a private client before the Board of Supervisors in the Dunnigan Hills matter.

The Grand Jury makes no recommendations concerning this matter because: (a) the questioned July 17, 2007 action of the Board was permitted pursuant to a specific applicable exception to the Brown Act and (b) the Board effectively waived potential conflicts of its special counsel after appropriate disclosure by special counsel and consultation with its own County Counsel.

### BACKGROUND

In a controversial update to the Yolo County General Plan, the Board of Supervisors conducted several public hearings during 2007 concerning Special Agricultural District land use proposals for portions of Yolo County. During these hearings an attorney for a Dunnigan Hills landowner suggested designating approximately 66,000 acres, generally referred to as "Dunnigan Hills," as a Special Agriculture District.

The Ralph M. Brown Act (California Government Code Sections 54950 – 54963) requires legislative bodies in California publish an agenda which contains a brief description of each item of business to be transacted or discussed at its meetings. Certain legislative actions taken in violation of the Act could be invalidated by a legal action and, if intentional, may be a misdemeanor. More specifically, the Brown Act prohibits Board action or discussion of any item not appearing on the posted agenda. Exceptions to this prohibition are made for Board action: (a) directing staff to place a matter of business on a future agenda; (b) making a reference to staff or other resources for factual information and requesting

staff report back at a later meeting; or (c) responding to statements made or questions posed by persons testifying before the board.

Rules regulating the professional conduct of California attorneys prohibit an attorney from accepting employment, without the consent of the client, adverse to another client where the lawyer has by reason of the representation of the client obtained confidential information material to the lawyer's new employment. (See Rule 3310, Rules of Professional Conduct of the California State Bar.) The rule also prohibits lawyers from representing a client without providing written disclosure to the client that the lawyer has or had a relationship or interest in the subject matter of the representation.

## APPROACH

In addition to a study of specific citizen complaints, the Grand Jury investigation included monitoring video recordings of meetings of the Yolo County Board of Supervisors and a review of 2007 board meeting notices, agendas, and meeting minutes.

## DISCUSSION

On the basis of staff reports and workshop meetings of the Board of Supervisors held during February and March 2005, the Board developed four draft land use alternatives for Yolo County. During 2006 the four land use alternatives were re-evaluated and refined by the Board, taking into account additional technical staff studies conducted addressing agricultural preservation, infrastructure, and market conditions.

At its December 19-20, 2006 meeting, the Board adopted a series of resolutions recommending a preferred alternative land use scenario for Yolo County. In doing so the Board rejected a specific development proposal known as "The Vineyards at Cache Creek Ranch" for property located within the southeastern portion of the Dunnigan Hills area (referred to in this report as "the Vineyard property"). There was public comment in opposition to the Vineyards proposal.

The agenda for the Board's March 27, 2007 meeting stated the Board would hold a public hearing concerning "*Adoption of the general plan preferred land use alternative for the purpose of proceeding with drafting of plan and environmental analysis.*" At that meeting more than 20 individuals addressed the Board concerning proposed land use alternatives within the County. Following public comment and close of the hearing on the matter, the Board acted to establish growth boundaries for unincorporated areas of the county and to begin the process of establishing the "first two" special agricultural districts

for the Clarksburg and Capay Valley geographic areas. The Board's March 27, 2007 action was consistent with the purpose of that meeting as announced in the notice and agenda published prior to that meeting.

At its July 17, 2007 meeting, during a period set aside for public comment on the Special Agriculture District agenda item, counsel for the owner of the previously rejected Vineyards property suggested the Board consider a special agricultural district for the Dunnigan Hills area. After discussion among its members, the Board voted to refer the matter of a possible Dunnigan Hills Agriculture District to staff for study and report back to the Board.

Counsel for the Vineyards property owner was previously engaged by Yolo County to provide the Board legal advice concerning environmental law and other related limited legal questions, none of which related to the Vineyards property, its owner, or the subject of special agricultural districts.

## FINDINGS

- F1. The Board's agenda for its July 17, 2007 meeting, in Item 4.01, stated: "*Public hearing to authorize mapping assumption for the general plan preferred land use alternative.*" The agenda specifically identified for consideration and action the boundaries of two Special Agriculture Districts in the vicinity of Clarksburg and in the Capay Valley.
- F2. During its July 17, 2007 meeting, the Board adopted a resolution directing its staff to return at its September 18, 2007 meeting with recommendations for a proposed Dunnigan Hills Special Agriculture District boundary map.
- F3. The Board did not take any action at its July 17, 2007 meeting to designate any of the Dunnigan Hills area as a Special Agriculture District. It referred the matter to its staff and requested staff report back at the September 17, 2007 meeting of the Board.
- F4. The Board's special environmental counsel did not consult with the County concerning special agricultural districts or land uses within the Dunnigan Hills area.
- F5. The Board's special counsel obtained written consent from the Yolo County Counsel and from the Vineyard property owner to appear in the general plan review hearings of the Board on behalf of the Vineyard property owner.
- F6. In granting such written consent to its Special Counsel the Board sought the advice of County Counsel.



- F7. Special Counsel for the Board made an advance written disclosure to the County Counsel of her intended professional relationship with the Vineyard project owner in connection with land use issues concerning the Vineyard property.
- F8. The Board's special counsel did not act unprofessionally in representing the Vineyard property owner before the Board because such Counsel had never been engaged by the Board with respect to Special Agriculture District issues or the Dunnigan Hills planning area. Also, before accepting the engagement by the Vineyard property owner the Board's special counsel sought and obtained the consent of the Board and of the Vineyard property owner.
- F9. The Board's action at its July 17, 2007 meeting, referring the matter of possible designation of the Dunnigan Hills area as a Special Agriculture District, did not require advance notice under the Brown Act as such reference to staff is expressly permitted by the Act without prior publication as an agenda item.

**RECOMMENDATIONS**

None.

*(Oversight Visits begin on page 39)*



## OVERSIGHT VISITS

### YOLO COUNTY JAIL

#### EXECUTIVE SUMMARY

As part of its oversight role, the 2007/2008 Yolo County Grand Jury visited the Yolo County Jail on October 15, 2007. The visit included a walk-through briefing, question and answer session, lunch, and observation of different aspects of jail operations. The overall appearance of the jail was clean and the food seemed good. Medical support is available for every day medical needs. The jail provides educational opportunities for inmates to earn their Certificate of General Educational Development (GED) while serving their time.

The Grand Jury's only recommendation is that the Yolo County Board of Supervisors finds the means to fund the jail expansion when the request is submitted. The Yolo County Jail is at maximum capacity at the time of this report.

#### BACKGROUND

California Penal Code 919 subdivision (b) provides: "The Grand Jury shall inquire into the conditions and management of the public prisons within the county." Pursuant to the statute, the Grand Jury conducted an oversight inspection of the Yolo County Jail located at 2420 East Gibson Road in Woodland.

#### APPROACH

Members of the Grand Jury met with the Jail Captain in charge of the in-custody operations and staff and received a briefing on prison operations and procedures. The Jail Captain and one Correctional Lieutenant were on hand to answer questions during the visit.

The prison tour included the booking area, prisoner housing, and medical facilities. Grand Jury members observed food preparation in the kitchen and were served the same lunch as the inmates.

#### DISCUSSION

The Monroe Detention Center is the main jail for Yolo County, providing support to a population of approximately 188,085 people (2006 U.S. Census Bureau) and covering an area of 1,023 square miles. When the prison was built in 1988, the population of Yolo County was 133,311. There has been no expansion of the prison since it was built, while the population has increased by 41% to 188,085.

At present, the jail staff totals 131 personnel, including 103 correctional officers. The Yolo County Jail is run by a Captain, who reports to the Yolo County Sheriff-Coroner. Their budget for 2007/2008 is \$12,330,661.

The jail consists of a 93,000 square foot main facility which can house up to 258 male and 52 female inmates in medium/maximum security pods. Another 112 male and 30 female inmates can be housed in the adjacent Walter J. Leinberger Memorial Minimum Security Detention Facility.

At the Monroe Detention Center, inmates are housed in pods, each of which has a day room. The design concept maximizes fresh air and sunlight, features carpeting and muted colors, and provides services directly to the inmates' housing unit. The purpose of this design is to limit the amount of inmate transport in and out of the housing units and reduce assaults, vandalism, and other disturbances. There is a protective custody section as well as housing elements designed to keep various gangs separate from one another. A half-pod of 32 cells is dedicated to housing women prisoners.

#### FINDINGS

- F1. There are plans to expand the Monroe Detention Center by adding a new pod, which would house an additional 150 prisoners, a visitor's center, a new kitchen and laundry facility, a remodel and expansion of the booking area, and a new medical and mental health unit. The total cost for the expansion is estimated to be \$42 million.
- F2. The areas visited by Grand Jury members were found to be clean and well maintained.
- F3. Based on the lunch provided to the Grand Jury members, the food at the jail appears to be good.

#### RECOMMENDATIONS

None.

### YOLO COUNTY JUVENILE DETENTION FACILITY

#### EXECUTIVE SUMMARY

2007/2008 Yolo County Grand Jury conducted an oversight tour of the Yolo County Juvenile Detention Facility. At the time of the visit, the observed facilities were found to be clean, securely controlled, organized, and functional.

## BACKGROUND

California Penal Code 919(b) mandates that each year the Grand Jury will investigate and report on the conditions and management of the public detention facilities. Members of the Grand Jury toured the Juvenile Detention Facility, located at 2880 East Gibson Road in Woodland, on January 29, 2008.

A division of the Probation Department, the Yolo County Juvenile Detention Facility is the temporary detention and treatment facility in Yolo County for minors (under 18) who are charged with violation of the law or who have violated conditions of probation. The mission of the Department is to protect the public from delinquent acts of minors while providing for the safety and security of detainees and staff in accordance with the law.

The facility opened in August 2005 and has up-to-date technology to enhance security. This includes cameras on the inside and outside of the building and metal detectors at the entrance. Electronic sensors are utilized to monitor the movement of minors within their respective sections of the facility.

## APPROACH

The Chief Probation Officer and his assistants conducted the tour and were available to answer questions. Grand Jury members visited the booking area and a holding cell, housing pods, exercise room, visitation rooms, and the infirmary.

## DISCUSSION

The facility has a 90 bed capacity, with 30 beds per housing pod. Each pod combines a cellblock with classrooms, a medical office, and interview rooms. At the time of the tour there were 63 wards. Of these, only 23 were from Yolo County. Yolo County is under contract to accept youth offenders from Amador, Mariposa, Tuolumne, and Sacramento Counties; such contract helps offset the cost of running the facility. Should the facility reach capacity, housing of youth offenders from Yolo County will have priority.

The California Forensic Medical Group (CFMG) contracts with the County to provide medical services to the wards. CFMG staff is at the Juvenile Detention Facility on a daily basis. Care is available for dental and medical needs of the wards, including dispensing of prescribed medications. Each new ward is given a complete medical check up within 96 hours of entering the facility.

Education, counseling, and physical activity opportunities are provided to wards by qualified personnel.

A Juvenile Court courtroom is available on the premises with a judge presiding. Family members are able to

attend the proceedings. According to the Chief Probation Officer, the recidivism rate is 8%.

## FINDINGS

F1. Based upon observations made of the visited areas, the Juvenile Detention Facility appears to be a clean, secure and safe environment.

## RECOMMENDATIONS

None.

## COMMENDATIONS

C1. The Yolo County Juvenile Detention Facility is to be commended for the accreditation of its infirmary through the California Medical Association's Institute for Medical Quality.

# WEST SACRAMENTO POLICE DEPARTMENT

## EXECUTIVE SUMMARY

The 2007/2008 Yolo County Grand Jury conducted an oversight tour of the West Sacramento Police Department Headquarters. There were two opportunities for improvement identified during the tour. First, the West Sacramento Police Department has yet to follow the nation-wide trend of installing dashboard mounted camera systems or "dash-cams" in their police cruisers. Second, the West Sacramento Police Department is out-growing its current location and will require additional funding to expand into the building behind it as the California Department of Forestry moves out.

## BACKGROUND

Section 925 (a) of the California Penal Code authorizes the Grand Jury to investigate and report upon the operations of any municipal agency within the county. Pursuant to the statute, on November 5, 2007 the Grand Jury conducted an oversight tour of the West Sacramento Police Department at 550 Jefferson Boulevard in West Sacramento.

## APPROACH

The oversight tour included a walk-through of the facility, a general overview of operations, and a briefing by the Police Chief and members of the staff. Topics addressed during the briefing included crime statistics for West Sacramento, crime in the Washington Unified School District, breakdown of staff by gender and ethnicity, gang issues, sex offenders, and the recruitment and retention of officers.



The Grand Jury also reviewed budgetary and personnel figures from the City of West Sacramento's Biennial Budget for 2007/2008 and 2008/2009.

## DISCUSSION

The West Sacramento Police Department provides a full range of police services to the residents of West Sacramento 24 hours a day, seven days a week. The department is staffed with 75 sworn officers and 39 civilian full-time employees servicing a population of 44,162 (2006 U.S. Census Bureau) within the 23.3 square miles comprising the City of West Sacramento.

The Department also includes part-time police officers, parking enforcement officers, reserve police officers and volunteers. A domestic violence advocate and a probation officer are located at the Department to enhance services.

## FINDINGS

- F1. The West Sacramento Police Department does not have "dash-cams" mounted in their police cruisers. This is a priority for the Police Chief and he wants it included in the June 2009 budget submission.
- F2. The West Sacramento Police Department has plans to expand by taking over the lease for the building behind its current location. The Department now occupies a portion of the building, but will take over the rest once the building is vacated.
- F3. The Department has received accreditation by the Commission on Accreditation for Law Enforcement Agencies (CALEA) since 2002.
- F4. The West Sacramento Police Department has opened its first police substation at the new Fire Station 45 to support the rapidly growing population in the Southport area.
- F5. The West Sacramento Police Department is taking a proactive stance concerning Megan's law offenders and other sex offenders residing in West Sacramento.

## RECOMMENDATIONS

- 08-39 The West Sacramento Police Department should install "dash-cams" in all of its police cruisers.

## REQUEST FOR RESPONSES

None.

## COMMENDATION

- C1. The West Sacramento Police Department should be commended for its CALEA accreditation and for its efforts to address community concerns.

## BIBLIOGRAPHY

- City of West Sacramento's Biennial Budget for 2007-2008 and 2008-2009  
<http://www.cityofwestsacramento.org/city%20of%20w%20sac%202007-2009%20budget.pdf>

## WEST SACRAMENTO FIRE DEPARTMENT Station 45 Tour

### EXECUTIVE SUMMARY

The 2007/2008 Yolo County Grand Jury conducted an oversight tour of the West Sacramento Fire Department. There were no negative issues identified during the tour. The City of West Sacramento has been able to draw large businesses and state agencies to the city, expanding the tax base and allowing for the continued expansion and modernization of the fire department.

### BACKGROUND

Section 925 (a) of the California Penal Code authorizes the Grand Jury to investigate and report upon the operations of any municipal agency within the county. On November 5, 2007, members of the Yolo County Grand Jury conducted an oversight tour of Station 45 of the West Sacramento Fire Department located at 2400 Lake Washington Boulevard in West Sacramento.

Station 45, which opened in the summer of 2007, also serves as the headquarters for the West Sacramento Fire Administration. It is the first new fire facility constructed in West Sacramento since its incorporation. With more than 27,000 square feet, the two-story Fire Station 45 accommodates up to nine firefighters and a duty chief, and contains fire administration offices, a training facility and a police services annex. With the completion of Station 45, the city has five staffed fire stations and six fire response companies.

### APPROACH

Members of the Grand Jury scheduled an oversight visit which consisted of a walk-through tour of Station 45 with the Division Chief. Additionally, the Grand Jury reviewed budgetary and personnel figures from the City of West Sacramento's Biennial Budget for 2007/2008 and 2008/2009.

### DISCUSSION

The mission of the West Sacramento Fire Department is to protect life, environment, and property of the 44,162 residents (2006 U.S. Census Bureau) within the 23.3 square miles comprising the City of West Sacramento. To effectively complete this mission, the Department has established five fire stations throughout

the city, each a front line fire engine equipped to handle a variety of emergency calls. The five fire stations operate 24 hours a day, seven days a week with a combined staffing of 19 personnel on duty. In 2007/2008, there was authorization for 60 personnel for the department, slated to increase to 63 in 2008/2009.

Firefighters work 24-hour tours of duty. A duty chief is assigned to each of three work groups or "shifts" to respond to structure fires and other major emergencies and provide incident command and scene management. The goal of the Fire Department is to have a response time of five minutes or less, 90% of the time.

The Fire Department is responsible for the unincorporated area south of the West Sacramento city limits to Babel Slough Road and across to the old Arcade Station on Jefferson Boulevard. The Fire Department has mutual aid agreements with several Yolo County Fire Departments and with the City of Sacramento Fire Department.

By the year 2010, four of the five fire stations in West Sacramento will have been renovated or newly built. Station 41 finished a major remodel in May 2007, Station 45 was newly built and opened in the summer of 2007, Station 43 is projected to be relocated to a new facility in 2009, and Station 42 is projected to relocate to a new facility in the Yarbrough residential development in 2010.

## FINDINGS

- F1. The West Sacramento Fire Department receives adequate funding from the City of West Sacramento. The City of West Sacramento has attracted new businesses and State agencies to relocate in West Sacramento, enhancing the tax base for the city and allowing for the expansion and continued modernization of the City's fire stations and equipment.
- F2. The overall state of Station 45 was found to be clean, attractive, and practical.

## RECOMMENDATIONS

None.

## COMMENDATION

- C1. The City of West Sacramento should be commended for ensuring its citizens receive a high level of fire protection services.

## BIBLIOGRAPHY

- City of West Sacramento's Biennial Budget for 2007/2008 and 2008/2009  
<http://www.cityofwestsacramento.org/city%20of%20w%20sac%202007-2009%20budget.pdf>

## YOLO COUNTY BRANCH LIBRARIES

### Four Oversight Visits

#### EXECUTIVE SUMMARY

Oversight of county libraries is within the scope of Grand Jury responsibilities. Four libraries in Yolo County were visited during the 2007/2008 term. Updated Grand Jury pamphlets and complaint forms were placed at each location.

It was noted by visiting Grand Jury members that wheelchair bound patrons may be inconvenienced at the Clarksburg library, but the branch provides library personnel as needed for assistance. The Knights Landing library is open very limited hours and a telephone answering machine is needed to provide the public with that information and to take messages when the branch is closed.

Projected and/or budgeted improvements were also noted.

#### BACKGROUND

As part of its responsibility for oversight of public institutions within the county, four of the seven branch libraries in Yolo County were visited by Grand Jury members. An effort was made to include small branches serving rural communities.

#### APPROACH

The Grand Jury made unannounced visits. One purpose of the visits was to determine the availability of past Grand Jury reports, pamphlets about the Grand Jury, complaint forms, and to provide information about the new Grand Jury web site. The condition of the facility, operating hours, and estimated circulation were part of the review. A librarian on duty assisted at each tour.

#### DISCUSSION

The patrons of all the libraries visited have access to the inter-county index of available books and their location. An inter-loan arrangement also allows for borrowing materials and books outside of the county facilities. All facilities have CDs and videos as well as books available for loan. All facilities have internet access and Clarksburg and Davis have wireless service. A behavior code is posted and enforced by the staff at each location. Hours of operation vary greatly from branch to branch. The maintenance of all facilities and grounds are provided by the county.

**Clarksburg Library**, located at 52915 Netherlands Road in Clarksburg, is open Tuesdays and Thursdays from 9:30 a.m. to noon and 1:00 p.m. to 7:30 p.m., Wednesdays from 5:30 p.m. to 7:30 p.m., and Saturdays

from 9:30 a.m. to 1:00 p.m. The building is owned by Friends of the Clarksburg Library, a local non-profit organization which funds capital improvements and replacements and provides the financial support necessary to keep the library open 15.5 hours in addition to the eight hours funded by the County.

The branch has more than 4,000 cardholders. According to the librarian, approximately 50% of the users are Spanish speaking. This library has very little demand for periodicals, therefore has a limited number of subscriptions. The facility has an unusually large proportion of inventory in hardbound books due to citizen donations.

An attached banquet/conference room is available for rent. Proceeds from the use of this room are a source of financial support for the library.

### **FINDINGS (Clarksburg)**

- F-C1. The facility is in a convenient location and is clean and well lit, but does not easily accommodate wheelchair access in the stacks.
- F-C2. Volunteers provide children's reading circles and story time and support activities for adults.
- F-C3. This library, because of its size and patron base, has determined it has no need to participate in a book-lease program used in some other facilities where there is a greater demand for new publications.
- F-C4. No Grand Jury brochures or complaint forms were in place. Updated materials were provided.

### **RECOMMENDATIONS (Clarksburg)**

**08-40** The Yolo County Grand Jury informational brochure, complaint form and most recently published Yolo County Grand Jury Report should be made available and easily accessible at the Clarksburg branch library.

**Davis Library**, located at 315 E.14th Street in Davis, is open Sunday 1 p.m. to 5 p.m., Monday 1 p.m. to 9 p.m., Tuesday, Wednesday and Thursday 10 a.m. to 9 p.m., and Friday and Saturday from 10 a.m. to 5:30 p.m.

This branch has over 54,000 borrowers, including more than 2,400 students and faculty from UC Davis. Many non-native English speaking patrons must be accommodated. The most common language of users, after English, is of Asian origin, followed by Hispanic and Middle Eastern languages.

The Davis Library branch circulated more than 1,000,000 items last year. There are three full-time professional librarians, three part-time employees with post-graduate degrees in library science, six full-time non-professionally trained assistants, 14 part-time substitute employees and one half-time professional librarian to

supervise 14 volunteers at this location. The passage of a recent bond issue will allow for expansion of services and remodeling of the existing building to take place at an unspecified time.

Friends of the Library are very active at this branch and conduct book sales on the premises for the financial benefit of the library. Children's activities are conducted with volunteer assistance.

Conference rooms are available at no charge for community groups, but not for commercial or exclusive purposes.

### **FINDINGS (Davis)**

- F-D1. Many past Yolo County Grand Jury Reports were available, but not the 2006/2007 report. Visiting Grand Jury members provided the most recent report.
- F-D1. The display box for Grand Jury pamphlets contained outdated materials which were replaced with current editions.
- F-D1. This facility is an open plan and wheel-chair accessible.
- F-D1. The librarian identified the area of South Davis as underserved by the current system.

### **RECOMMENDATIONS (Davis)**

**08-41** The Yolo County Grand Jury informational brochure, complaint form and most recently published Yolo County Grand Jury Report should be made available and easily accessible at the Davis branch library.

**Knights Landing Library** is located at 42351 Third Street in Knights Landing. The location is only open two days a week: Monday 1:00 p.m. to 6:00 p.m. and Wednesday 10:00 a.m. to 6:00 p.m. They have only one paid employee, but get additional volunteer assistance from volunteers from Friends of the Library. Approximately 300-400 books are circulated. Some purged and donated books are available for sale.

An area is set aside with appropriate materials for young readers. A community bulletin board is available for announcements.

### **FINDINGS (Knights Landing)**

- F-K1. Very few books are donated to this library.
- F-K2. A copy of the 2006/2007 Yolo County Grand Jury Report was not located. Visiting Grand Jury members supplied one for the reference area.
- F-K3. No Grand Jury brochures or complaint forms were found. The latest editions of these materials were supplied.
- F-K4. When the library is closed, the phone has no answering machine but switches to fax mode.

**RECOMMENDATIONS (Knights Landing)**

- 08-42 The Yolo County Grand Jury informational brochure, complaint form and most recently published Yolo County Grand Jury Report should be made available and easily accessible at the Knights Landing branch library.
- 08-43 Install an answering machine which can provide an outgoing message of the library hours and is capable of recording voice messages.

**Arthur F. Turner Library** is located at 1212 Merkley Avenue in West Sacramento. The library is open Monday noon to 8 p.m., Tuesday, Wednesday and Thursday 11 a.m. to 8 p.m., and Friday and Saturday 10 a.m. to 5:30 p.m.

This branch has nine paid employees and many youth volunteers. The circulation is approximately 150,000 annually. A wide variety of activities and programs are scheduled at the library, including fall programs for pre-schoolers and early learners, visits by authors, and an annual Poetry Slam. The West Sacramento Youth Advisory Commission helps with projects and makes suggestions for book purchases.

The current facility has a large conference room available for use by non-profit organizations or clubs. A new 18,000 square foot facility is planned, but there is no firm projected date for this building.

**FINDINGS (Turner Library)**

- F-T1. Spanish language readers are accommodated with books and other materials.
- F-T2. Businesses and civic organizations, as well as citizens, are actively solicited for contributions to support their book purchases.
- F-T3. Neither the Grand Jury information pamphlet nor the complaint form was available. New materials were supplied for display.

**RECOMMENDATIONS (Turner Library)**

- 08-44 The Yolo County Grand Jury informational brochure, complaint form and most recently published Yolo County Grand Jury Report should be made available and easily accessible at the Arthur F. Turner branch library.

**REQUEST FOR RESPONSES**

Pursuant to California Penal Code Section 933.05, the Grand Jury requests a response as follows:

*From the following individual:*

- Yolo County Head Librarian (Recommendations 08-40 through 08-44)

**YOLO COUNTY SCHOOLS  
Three Restroom Reviews**

**EXECUTIVE SUMMARY**

Oversight of schools is within the scope of Grand Jury responsibilities. Two high schools and one middle school in Yolo County were visited during the 2007/2008 term as a follow up to concerns regarding the condition of restroom facilities. Grand Jury members noted that graffiti is an ongoing problem at all the schools visited. Aside from this issue, the facilities appeared to be in satisfactory condition.

**BACKGROUND**

As part of its responsibility for oversight of public institutions within the county, three schools in Yolo County were visited by Grand Jury members: Davis Senior High School in the Davis Joint Unified School District and Woodland High and Lee Middle Schools in the Woodland Joint Unified School District. The main purpose of the visits was to determine the condition of restroom facilities in these secondary schools.

**APPROACH**

The Grand Jury made unannounced visits during regular school hours. At each location a staff member accompanied Grand Jury members on an informal tour and answered questions as they arose. The restrooms were inspected for functionality, cleanliness, lighting, and availability of hot water, paper towels and hand soap. Faculty restrooms were not inspected.

**DISCUSSION**

Grand Jury members entered and checked most restrooms on the campuses that were available to students during normal school hours using the following protocol:

- Activated the flushing devices on toilets to see if they were operating satisfactorily.
- Checked paper towel and soap dispensers to see that they were stocked and functional.
- Turned on faucets in wash basins to see if both hot and cold water were available and that the water drained satisfactorily.
- Looked for standing puddles of water on floors and around commodes.
- Checked for debris in commodes and urinals.
- Checked that lighting was functional and adequate.
- Looked for apparent safety hazards such as broken glass or slippery floors.
- Noted whether private spaces surrounding commodes had functional privacy doors.
- Checked for availability of sanitary products in the girls' restrooms.



Defacement of restroom facilities by graffiti was by far the most persistent problem noted at each school, although it was apparent that staff makes an effort to remove graffiti as soon it is discovered. Keeping the facilities well-stocked and clean appears to be challenging.

**Davis Senior High School** is located at 315 14th Street in Davis and is the only comprehensive public high school serving the community. It is a 3-year school with an enrollment of 1,694 students. The school was visited on December 4, 2007.

**FINDINGS (Davis Senior High School)**

- F-D1. Most of the observed restroom facilities were found to be in satisfactory condition, although graffiti was noted in some areas.
- F-D2. In the theater area, both boys' and girls' restrooms had broken electric light fixtures surrounding the wall mirrors. The broken fixtures, with exposed wires and missing light bulbs, could be shock hazards. Staff noted reoccurring problems in these bathrooms and indicated their use may be limited in the future.
- F-D3. It was noted in the football locker room that two sinks were without hot water.

**Lee Middle School**, located at 520 West Street in Woodland, is one of two middle schools in the city. It serves about 750 students in grades 7-8. The school was

visited on November 19, 2007.

**FINDINGS (Lee Middle School)**

- F-L1. Restrooms toward the front of the school were locked due to excessive graffiti and were not to be reopened until graffiti could be removed by maintenance personnel.
- F-L2. The majority of the restrooms appeared well-stocked and clean.

**Woodland High School** is located at 21 North West Street in Woodland and is the older of the two comprehensive public high schools serving the community. It is a 4-year school, with approximately 1,680 students enrolled. The school was visited on November 19, 2007.

**FINDINGS (Woodland High School)**

- F-W1. Only a few instances of graffiti were noted.
- F-W2. The cleanliness of the restrooms was fair. There was at least one heavily clogged commode. Excess toilet paper was on the floor in several areas. Urinals did not appear clean.
- F-W3. There were a number of broken soap dispensers and nonfunctioning hand dryers.
- F-W4. Several of the restrooms were not fully stocked.

**RECOMMENDATIONS**

None.



