

GRAND JURY REPORT



2011 - 2012

Plumas County Civil Grand Jury

What is it? What does it do?

The Plumas County Civil Grand Jury is an independent body empowered by law to investigate all aspects of county government under its “watchdog” function. It is a body made up of volunteers and selected members from a jury duty pool who serve for a period of one year from July 1 through June 30. It is independent of county administrators and politicians. All jurors are sworn to secrecy to protect the confidentiality of complainants and interviewees.

Grand Juries have existed in California since the original constitution of 1849-50. The codification of Grand Jury Law came about in 1872 with the adoption of the Penal Code where most Grand Jury Law resides. This code includes inquiring into local prisons, auditing of county books, and examining matters of community interest. In 1880, the Grand Jury was expanded to investigate local governments. Grand Jury Law is embedded in the Penal Code, in a section identified as Part 2, Title IV beginning with section 888 which states: A Grand Jury is a body of persons of the county sworn to inquire of public offenses committed or triable within the county. One Grand Jury in each county shall be charged and sworn to investigate or inquire into county matters of civil concern.

Plumas County grand jurors are agents of change. They are civic-minded individuals who have chosen to give back to their community by striving to suggest improvements in the way local government entities conduct their business. Drawing from their life experiences, the Grand Jury’s mission is to help our local government be more responsive and efficient. The Jury accomplishes this by examining and monitoring the performance of the county government, special districts, and cities within the county by conducting research, interviewing public officials, experts, and the citizenry, as well as visiting public facilities. The Grand Jury reviews and evaluates procedures, methods, and systems utilized by county government, and functions lawfully as one body. No individual of the Grand Jury acts alone or has any power or authority. Meetings of the Grand Jury are not open to the public. The law requires all matters discussed and votes taken before the Grand Jury are to be kept private and confidential. Reports are developed, resulting in recommendations that have the potential of increasing the efficiency and effectiveness of government services. The goal is to facilitate positive change in Plumas County.

The Civil Grand Jury as an independent body has the ethical and moral responsibility to use its resources wisely and conduct meaningful investigations, yielding reports that will make a positive difference in local government.

"All that is necessary for the triumph of evil is that good men do nothing."
(Edmund Burke) 1729–1797

2011 / 2012 Plumas County Grand Jury Final Report

Table of Contents

| Subject | Page |
|--|-------------|
| Plumas County Civil Grand Jury What is it? What does it do? | I |
| Table of Contents | II |
| Grand Jury Roster | III |
| Letter to Judge Hilde | IV |
| Investigative Reports | |
| Plumas County Schools Student Safety – the Prime Concern | VI |
| Plumas County Audit Kicking the Can Down the Road | VII |
| Plumas County Jail | VIII |
| Free Firewood – But for Only a Few | IX |
| Portola – the Whole Story | X |
| Grand Jury Report Distribution List..... | XI |

LOOKING BACK WITH PRIDE

PLUMAS COUNTY CIVIL GRAND JURY ROSTER 2011/2012

Participation in Grand Jury investigations and discussions is a rich and rewarding experience. It is an opportunity to get an intimate look at how government works and to make informed and valuable recommendations regarding possible improvements. It is also an opportunity to serve with fellow county residents and to discover how a body of sixteen dedicated citizens reaches consensus. This is the heart of the democratic process, and service on the Grand Jury is a valuable way to learn, to contribute and to make a difference in our community.

We the members of the 2011/2012 Civil Grand Jury are proud to have served on such a worthy assembly. We hope our work will help improve conditions here in Plumas County and we want to thank all of you for entrusting us with this very important task.

| | | |
|--------------------------|------------------------------------|------------------|
| Richardson, Frank | Foreperson | Quincy, CA |
| Huddleston, Josh | Foreperson /pro tem | Taylorsville, CA |
| Nichols, Joe | Treasure & Public Safety Co-Chair | Chester, CA |
| Foster, Colleen | Correspondence Secretary | Quincy, CA |
| Hopman, Lisa | Parliamentarian | Quincy, CA |
| Marshall, Laverna | Recorder & Special Districts Chair | Beckwourth, CA |
| Doyle, Dennis | Recorder & Audit Committee Chair | Clio, CA |
| Garcia, Caroline | Member | Taylorsville, CA |
| Gruber, Larry | Member | Portola, CA |
| Headley, Kathryn | Editorial Committee Chair | Graeagle, CA |
| James, John | Member | Lake Almanor, CA |
| Ghidossi, Donna | Member | Portola, CA |
| MacArthur, Bob | Public Safety Co-Chair | Lake Almanor, CA |
| Smith, Robert | Member | Chester, CA |
| Sunderman, Lynn | Health & Social Services Chair | Quincy, CA |
| Szczerby, Carolyn | Member | Portola, CA |

"Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has." - Margaret Mead



PLUMAS COUNTY GRAND JURY

PO Box 784
Quincy, CA 95971

Frank Richardson

June 30, 2012

Josh Huddleston

The Honorable Janet Hilde
Presiding Judge
Plumas County Superior Court

Joe Nichols

Re: 2011-2012 Plumas County Grand Jury Final Report

Colleen Foster

Dear Judge Hilde,

Lisa Hopman

On behalf of the 2011-2012 Plumas County Grand Jury, I am pleased to present this final report to you and the citizens of Plumas County.

Laverna Marshall

Caroline Garcia

The primary function of the Grand Jury is the examination of all aspects of county government and special districts, seeing that the government agencies are being run efficiently, honestly, and fairly. We took our job seriously. The members of the Grand Jury worked tirelessly, meeting as a panel or in special committees. We toured several county facilities, including the penal institution located in Quincy. We reviewed thousands of pages of documents and met with or interviewed nearly one hundred agency and departmental representatives and employees. All together, thousands of hours were spent in the preparation of the final report.

Dennis Doyle

Larry Gruber

Kathryn Headley

Each year, the Grand Jury chooses what issues to address and where to focus its resources to best serve the public. We selected a wide range of topics. Our goal was to seek issues which were important to the community and where we thought the Grand Jury could best contribute. Those members who had potential conflicts of interest recused themselves in all cases.

John James

Donna Ghidossi

Bob MacArthur

Although it is sometimes the role of the Grand Jury to criticize, we want to acknowledge all of the hardworking government employees in Plumas County. When we do criticize, we do so not to point out any human imperfection, but to draw attention to systems that could be improved and to recommend ways to improve them. It has been a privilege to have had such a close view of the intricacies and complexities of our local government.

Robert Smith

Lynn Sunderman

Carolyn Szczerby

I am very proud and fortunate to have served as Foreperson of the 2011-2012 Plumas County Grand Jury. Every member of the Grand Jury has been dedicated, dauntless, and honorable. It has been a pleasure and honor to have served with them.

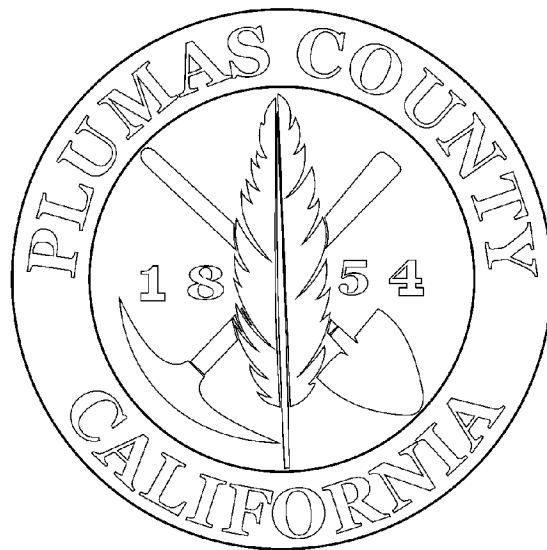
Sincerely,

Frank Richardson
Foreperson 2011-2012 Plumas County Civil Grand Jury

PLUMAS COUNTY SCHOOLS

Student Safety – the Prime Concern

PLUMAS COUNTY GRAND JURY



Report 2011 / 2012

2011 / 2012 Plumas County Grand Jury

Plumas Unified School District Report

Table of Contents

| Subject | Page |
|--------------------------------|-------------|
| Summary / Background | 1 |
| Approach | 1 |
| Discussion | 1 |
| Consolidation of Schools | 2 |
| Hiring Practices..... | 3 |
| Findings | 3 |
| Recommendations | 4 |
| Request for Response | 4 |

STUDENT SAFETY

The Prime Concern

John F. Kennedy said, “Our progress as a nation can be no swifter than our progress in education. The human mind is our fundamental resource.”

SUMMARY / BACKGROUND

The Plumas County Grand Jury (PCGJ) began this year by following up on last year’s report regarding the Plumas Unified School District (PUSD)/Plumas County Office of Education (PCOE). The 2011-2012 Grand Jury did not receive a response to the 2010-2011 Grand Jury report from PUSD/PCOE until December 2011. After reading their response, the Grand Jury realized that student safety was not addressed.

APPROACH

One of the duties of the Grand Jury is to investigate citizen complaints. The Grand Jury received complaints from concerned citizens regarding the Superintendent’s Office of PUSD/PCOE. One issue was with the hiring process of superintendents.

Continuing the investigative process, subpoenas were required to compel some of the School Board and staff members to appear before the Grand Jury. When written documents were requested of PUSD/PCOE, their lack of cooperation further stifled our investigation.

DISCUSSION

When the interviewing process was underway, the Grand Jury was appalled by the Boards’ ignorance regarding student safety. The Grand Jury made all PUSD/PCOE Board members aware of the safety requirements found in the California General Code of Regulations, Title 5, Section 14010(e); the California Education Code 17213(b); and the Public Resources Code, Section 21151.8(2A) regarding the location of schools next to roadways that are used by vehicles that transport hazardous materials, and school sites that are located with a quarter mile of a facility handling hazardous materials, as well as possibly producing hazardous air emissions.

An Architectural Study that was prepared by HMR Architects in September 2011 did identify and address a number of safety issues that concerned compliance with the Americans with Disabilities Act regarding access, ramps, stairs, land elevation, and traffic related to staff and visitor parking lots, plus other issues. The School Board maintains that the HMR report satisfies the identification of potential safety concerns. However, the possible proximity to toxic and hazardous substances, hazardous air emissions, and facilities that possibly produce hazardous materials within a quarter mile of a school was not addressed. Other areas need to be researched and evaluated as well. The architectural study refers to the Sierra Pacific Industries (SPI) site as a lumberyard, but the architectural study makes no reference to the co-generation plant located at the same site. The Grand Jury found no evidence that any specific safety study had been done regarding the co-generation plant.

CONSOLIDATION OF SCHOOLS

Another concern about student safety is the consolidation of the two Quincy elementary schools. The California Department of Education (CDE) considers Pioneer/Quincy Elementary School as one school with two campuses. Since the HMR architectural study recommended the consolidation of Pioneer and Quincy Elementary Schools, and not a closure of one school, the PUSD/PCOE felt that the architectural study satisfied the requirement for a safety study. The Grand Jury found that no study was done regarding the safety hazards of either campus.

The District did appoint a District Advisory Committees (DAC), also known as the 7-11 Committee. Legislative requirements state that each committee consists of at least 7 members, but no more than 11 members. The DAC/7-11 Committees were made up of community members who contributed their time without compensation, and who wanted the best for our children. The committees were formed late by the PUSD/PCOE Board and were not given the time frame expected in the California Department of Education's (CDE) "Closing a School Best Practices Guide."

The "Suggested School Closure Time Line" from the CDE is about 6 months in duration. In December 2011, the School Board formed the DAC/7-11 Committees, and they started meeting in January 2012. In about 4 months their job was completed. The Grand Jury observed the DAC/7-11 Committees and found them to take on huge tasks and do an incredible job. Their questions and concerns were focused, and their fact finding accurate.

HIRING PRACTICES

The California School Boards Association (CSBA) entered into an agreement with PUSD/PCOE to recruit candidates for the position of Superintendent that CSBA considered qualified. The agreement cost the district over \$14,000. The Grand Jury found no evidence that a background investigation was completed by the CSBA. There was a failure by the PUSD/PCOE to verify the background information and no information regarding a background investigation was on file at the district offices. Moreover, there is no policy in place requiring the vetting of information and holding of permanent records by the PUSD/PCOE. We found no existing policies for hiring a superintendent.

Two Board members were quoted as saying that the superintendent candidate who was hired “was a breath of fresh air,” when comparing him to the other candidates that CSBA had recruited. Without a formal hiring policy, the PUSD/PCOE will continue to make decisions based on inaccurate and incomplete information.

FINDINGS

- F1. The HMR Architects report does not address the issue of toxic and hazardous substances, hazardous air emissions, and facilities that produce hazardous materials within a quarter mile of a school.
- F2. The HMR architectural study makes no reference to the co-generation plant located at the Sierra Pacific Industries site.
- F3. The Grand Jury found that no study was done regarding the safety hazards of either the Pioneer or Quincy Elementary Schools campuses.
- F4. The Grand Jury found no evidence that any specific safety study had been done regarding the co-generation plant.
- F5. The PUSD/PCOE entered into an agreement with the California School Boards Association (CSBA) to recruit candidates for the position of Superintendent. The recruiting agreement cost the district over \$14,000.
- F6. The Grand Jury found no evidence that a pre-employment background investigation was completed by the CSBA.
- F7. There was a failure by the PUSD/PCOE to verify the background information of the Superintendent, and no information regarding a background investigation was on file at the district offices.
- F8. The Grand Jury found no policy in place requiring the vetting of information and holding of permanent records by the PUSD/PCOE.
- F9. The Grand Jury found no existing policies for hiring a Superintendent.
- F10. The Grand Jury found that the DAC/7-11 Committees took on huge tasks and did an incredible job.

RECOMMENDATIONS

- R1. The Plumas County Grand Jury recommends that the PUSD/PCOE Board, utilizing the District Human Resources staff and legal counsel, formulate a policy meeting all the legal requirements for hiring a Superintendent.
- R2. The Grand Jury further recommends that the PUSD/PCOE Board accomplish this task within 90 days of the issuance of this report, and before the hiring of a new superintendent.

REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the Grand Jury requests responses as follows from the following governing bodies:

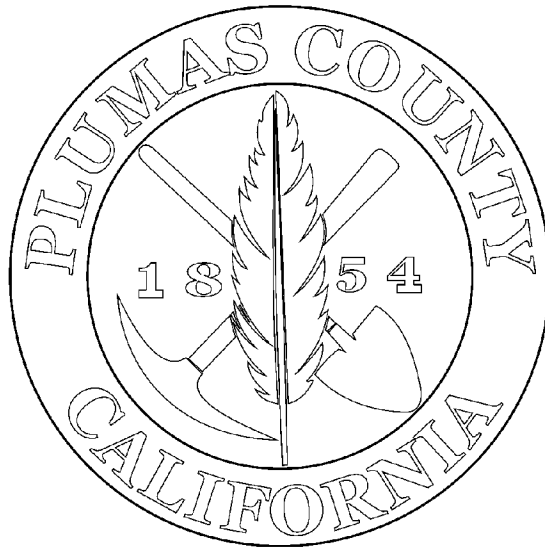
- The Plumas County Grand Jury requests a response, within 90 days from issuance of this report, from the PUSD/PCOE Board, the District Human Resources staff, and legal counsel addressing the issue of formulating a policy that meets all the legal requirements for hiring a Superintendent.
- The Grand Jury further requests a response, within 90 days from the issuance of this report, that the PUSD/PCOE Board, the District Human Resources staff, and legal counsel acknowledging they will accomplish these tasks, before hiring a new Superintendent.

| |
|--|
| Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury. |
|--|

PLUMAS COUNTY AUDIT

Kicking the Can Down the Road

PLUMAS COUNTY GRAND JURY



Report 2011 / 2012

2011 / 2012 Plumas County Grand Jury

Plumas County – Kicking the Can Down the Road

Table of Contents

| Subject | Page |
|-----------------------------------|-------------|
| Executive Summary | 1 |
| Background | 1 |
| Approach | 1 |
| Discussion | 2 |
| General Fund Spending Graph | 2 |
| Revenues | 3 |
| Revenues Graph | 3 |
| Expenditures | 4 |
| Expenditures Grapy | 4 |
| County Assets | 5 |
| County Debt | 5 |
| Unfunded Liability | 5 |
| Plumas Paralysis | |
| A Failure to Lead | 5 & 6 |
| Organizational Chart | 7 |
| Findings | 8 |
| Recommendations | 8 |
| Conclusion | 9 |
| Glossary of Terms | 10 |
| GASB 54 | 10 |
| Contingency Fund | 10 |
| Reserve Fund | 10 |

KICKING THE CAN DOWN THE ROAD

EXECUTIVE SUMMARY

This year's investigation of Plumas County's finances has good and bad news. On the good side, Plumas County's credit rating by Standard and Poor's was increased from an AAA to AAA+. This means that the County has been keeping up with its financial obligations and paying its bills on time. Also of good news is the County received an "unqualified opinion" in the independent auditor's report of Fiscal Year (FY) 2010/2011, which means that the County's accounting requirements and practices were followed correctly and there were no exceptions noted.

But that is where the good news ends. Plumas County is spending more than it is taking in, and in so doing it has depleted all its reserves and is heading for a financial meltdown if changes are not made and made soon. In seven of the last ten years, Plumas County has been depleting its reserve (savings) account to make ends meet and that account is now depleted.

To the County's credit, Management and the Board of Supervisors have made substantial cuts in spending by eliminating or reducing non-essential services, reducing the number of employees, employee's hours and benefits. But that is not enough. The County is still spending more than it is taking in each year. The County is going to have to decide on what Public Services it can maintain, and which ones it has to cut. If cuts are not made, the County could go bankrupt.

BACKGROUND

Section 925 of the California Penal Code requires that the Grand Jury examine the financial accounts and records of the County on an annual basis.

In addition, California Code section 25250 requires the Board of Supervisors to conduct an annual audit of all County accounts. This audit is conducted by an outside independent auditor. Section 926 of the Penal Code allows the Grand Jury to enter into a joint contract with the Board of Supervisors to employ an audit for both of these purposes. As in previous years, the independent audit firm of Smith and Newell of Yuba City, CA was contracted to perform the audit of FY 2010/2011, which is the subject of this report.

APPROACH

The Grand Jury interviewed and took testimony of the County Auditor, County Administration Officer (CAO), the County Treasure, all members of the County Board of Supervisors (BOS) and the independent audit firm of Smith & Newell. In addition, and with the help of an independent outside Certified Accountant, the Grand Jury reviewed the last 10 years of audit reports from FY 2001/2002 to June 30th, 2011.

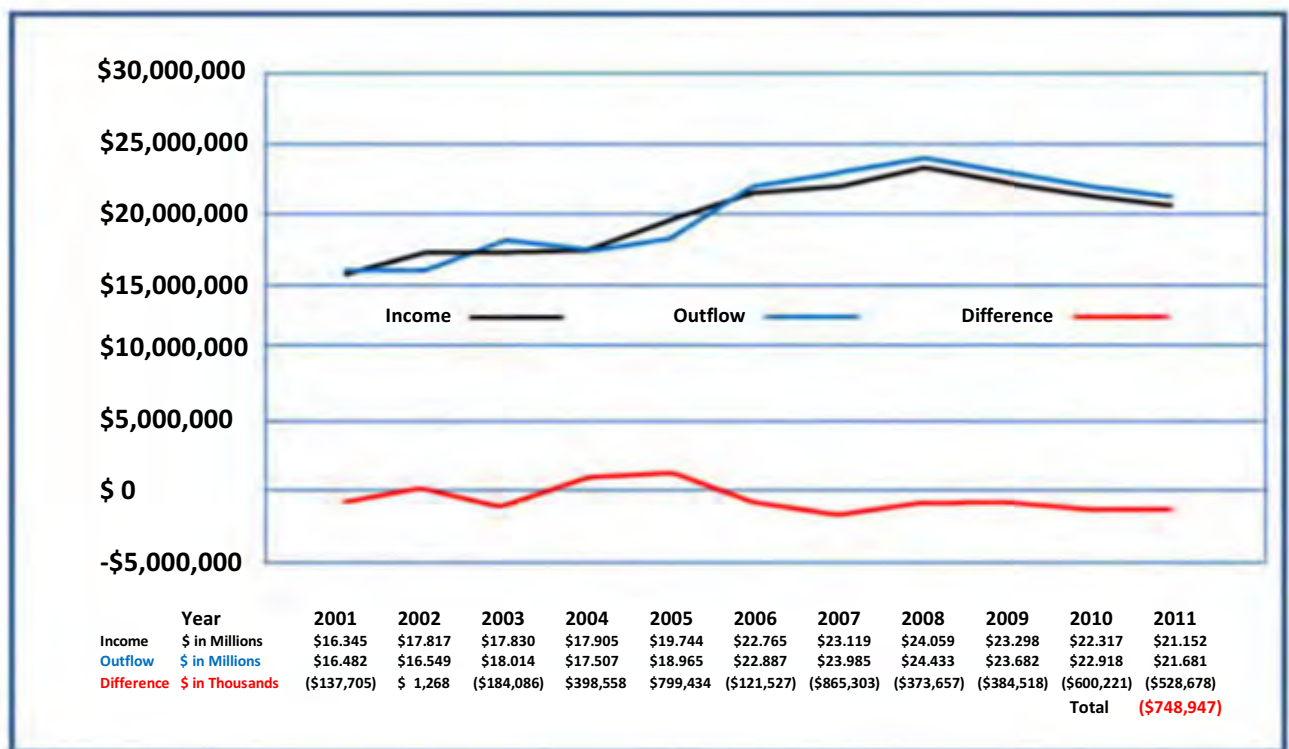
DISCUSSION

The Grand Jury felt it was time to report to the citizenry what is really going on with the County's finances in a manner that can be understood by every reader, professional and layman alike.

The General Fund is the chief operating fund of the County. During FY 2010/2011, the County's income was \$51,491,280 down \$2,896,901 from the previous year, and yet, expenditures were only down \$881,078 from the previous year. *Herein lies the problem; the County is not reducing its spending sufficient enough to keep pace with its reduction of income.*

The following chart shows how the County is spending more money than it is taking in.

PLUMAS COUNTY MAIN GENERAL FUND FOR OPERATIONS



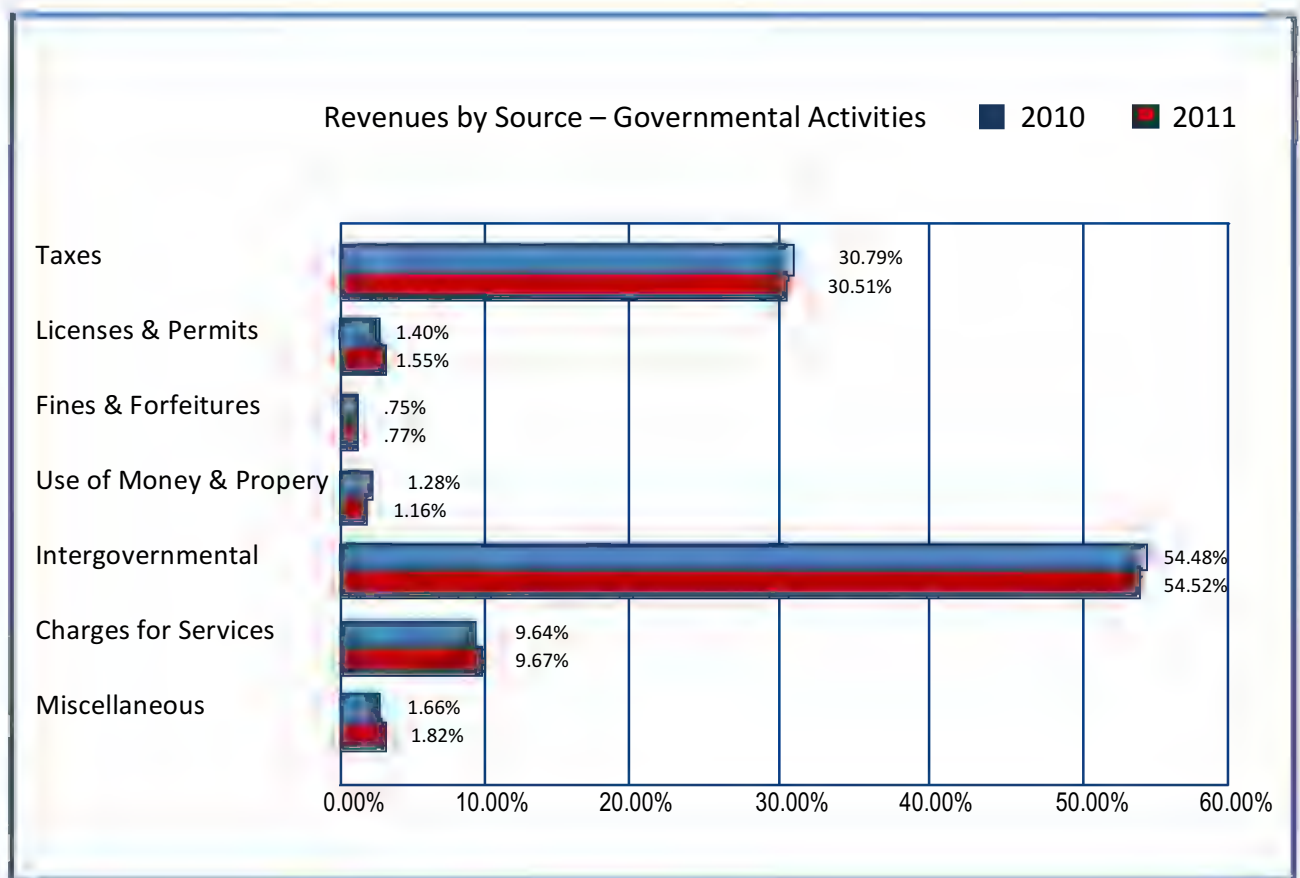
Source: Plumas County Auditor

The County continues to overspend by digging into its reserve account (savings) to the point where there is no savings left, and as of this writing, it is estimated the County is in the hole approximately \$1.5 million dollars for the current Fiscal Year.

REVENUES

Of the over \$51 million received last year, 54.52% were funds from State and Federal programs and grants. 30.51% came in from various taxes (Property, Tourist and Sales Taxes, etc.). The remaining 14.97% came in from a wide assortment of charges for licenses, permits, fees and fines.

The following graph shows an illustrative picture of where the County funds come from.

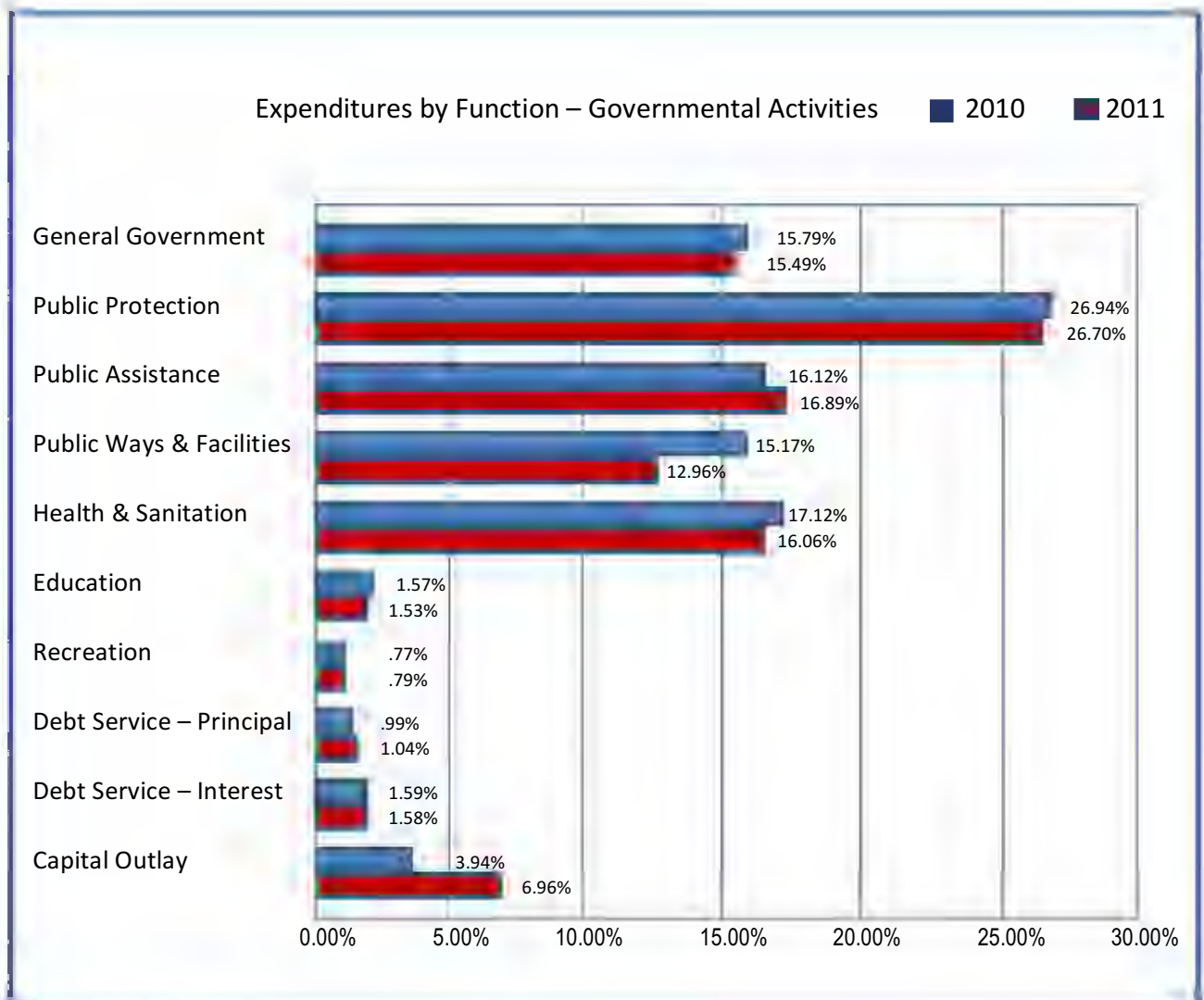


Source: Smith & Newell Audit Report for year ending 6/30/2011

EXPENDITURES

On the expense side of the ledger, the County spent the majority of its income (26.7%) on Public Protection (Police, etc.), 16.89% went to Public Assistance programs, 16.06% for Health and Sanitation services, and 12.96% for Public Ways and Facilities. The County spent 15.5% on its own operations, down \$294,510 from last year. The remaining 11.89% was spent on Capital Outlay, Education, Recreation and Debt Service.

The following graph shows an illustrative picture of how County funds were spent.



Source: Smith & Newell Audit Report for year ending 6/30/2011

COUNTY ASSETS

The County's investment in capital assets as of June 30th 2011 amounted to \$50,983,513. This includes a broad range of assets including land, infrastructure, (roads and bridges), buildings, tools and equipment.

COUNTY DEBT

As of June 30, 2011, the County had a total long-term debt outstanding of \$24,773,820 as compared to \$24,965,982 in the prior year. During the year there was a reduction of debt amounting to \$536,704 and an increase in post-employment benefits of \$344,542.

UNFUNDED LIABILITY

An unfunded liability is a liability that has no funds put aside to cover its potential expense.

An unfunded liability is what the actuary determines as the cost to cover shortfalls from market losses, demographic changes, overly optimistic investment returns by the pension plan administrator or other benefit improvements that were not covered by the contribution rates collected from the employee or the employer.

The County has a huge unfunded liability in its Retiree Health Benefit program. For years, the program was funded by returns from investments in Stocks, Bonds and other investments. With the poor economy, these investments have not met their normal return and therefore the resulting shortfall is left to the County.

From 2009 to 2011 the County's unfunded liability has nearly doubled, going from \$767,398 to \$1,444,251. Under current policies, a County employee's sick time is accrued from year to year, and when an employee retires, all of their sick time is paid out to them as an additional benefit to their retirement plan. This puts a financial burden on the unfunded liability account.

PLUMAS PARALYSIS

A Failure to Lead

The County's inability to get a handle on its spending practices is a symptom of a much larger problem. The problem is simply a lack of leadership at the highest level.

In its investigation, the Grand Jury interviewed each member of the Board of Supervisors (BOS), the County Administration Officer (CAO) and several department heads. The CAO told the Grand Jury that his role was that of the budget officer and not supervising the department heads. Several Board members told us that they thought the CAO was to supervise the department heads. It was obvious after those interviews that consistent supervision was not in place. We asked the Supervisors individually if there were meetings with the department heads to set goals, objectives, and expectations for the coming year. The Grand Jury was surprised to learn that there was none.

The Grand Jury was left wondering how the CAO and members of the BOS could possibly align the County's goals and objectives with the department heads, without focused leadership and communication.

Development of departmental objectives and goals seemed to be left to each individual department head. The Grand Jury asked the BOS why there was no policy or plan in place for directing department heads and performing evaluations. One Supervisor told us that they kept asking the CAO for a policy but it was never received. The Grand Jury was stunned to learn that the BOS would ask an employee to perform a task and then do nothing when it was not completed. The Grand Jury realized that the BOS was not sure of their leadership roles, or responsibilities within the County.

Individually, most all of the people who serve the County as department heads or on the Board of Supervisors (BOS) are well-intended, good and honest people. They are doing a good job under trying circumstances, and credit should be given to each one of them for their efforts. But as a group they are *at times* dysfunctional. They do not work together for the common good of the County, and are seemingly more concerned with their own territory than doing what is right for the citizens of Plumas County. Without strong leadership, they run amuck with their own agenda and no clear direction or purpose.

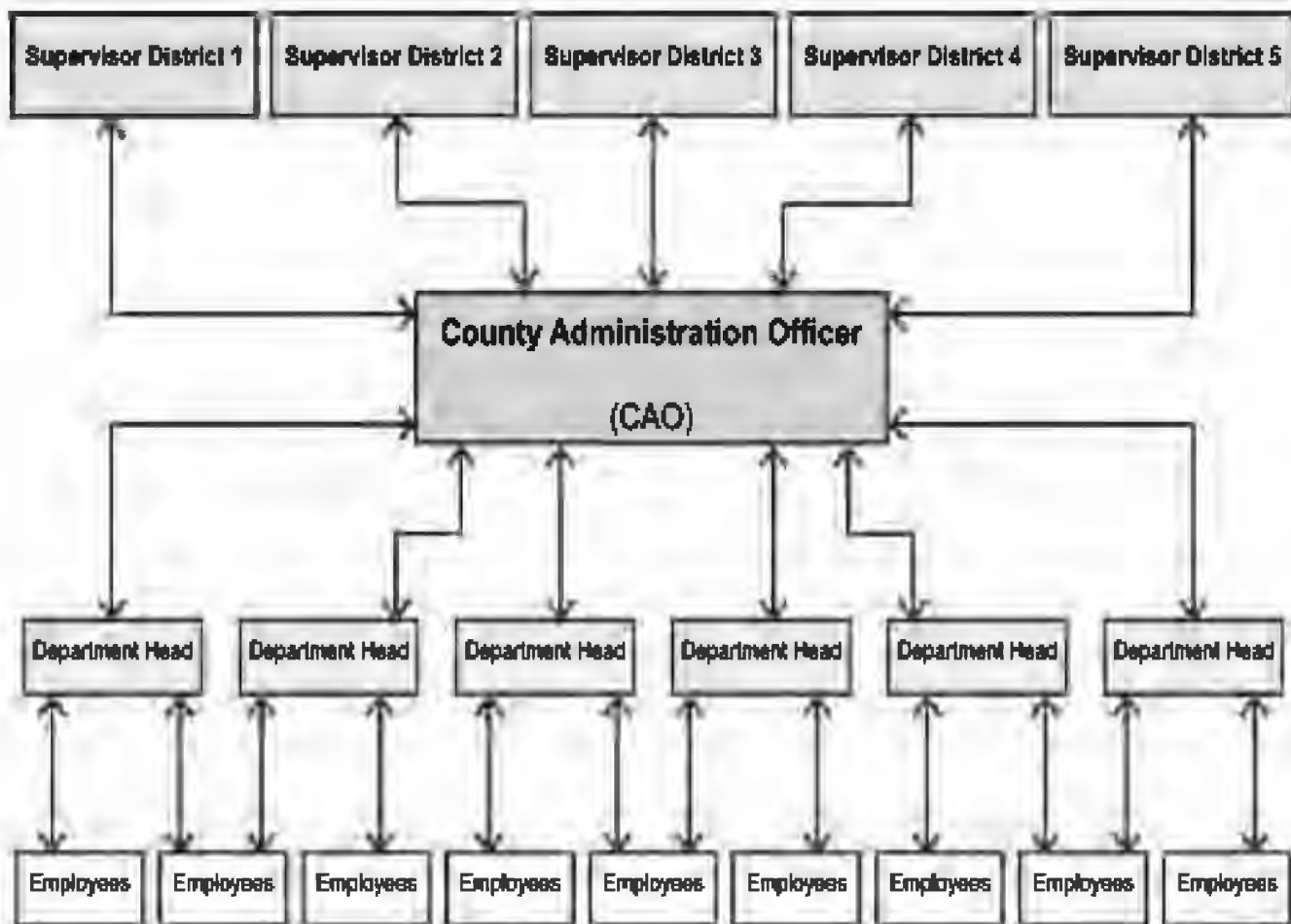
The County is like a ship without a rudder; an army without a General.

The following statements are not directed at the previous CAO, but rather the circumstances that have led to leadership issues and organizational dysfunction.

The last several years, the County has been running around without proper leadership and direction. The former County Administration Officer (CAO) has allowed department heads and other employees to go around the CAO and consult directly with the BOS or County Legal Counsel with impunity. When department heads are free to consult with five different BOS members, all with different opinions, nothing is consistent, and nothing gets accomplished. The lack of strong leadership has led to chaos and stress in the system to the point where two highly-qualified department heads quit their jobs in protest, leaving no one trained to fill that position.

The system is not broken; it is simply paralyzed without a **STRONG** leader in the CAO position. With a strong CAO as leader, all department heads and employees would know with certainty what their common goal is and how to achieve it. There would be no tolerance for backstabbing or rogue behavior. **(See the following Organizational Chart)**

ORGANIZATIONAL CHART



FINDINGS

- F1. The Contingency Fund is down from \$3,138,700 in 2006 to \$422,000 as of April 2012. Contingency funds are to be used for unanticipated expenses only. (See Glossary of Terms)
- F2. The County's Reserve Fund has been used to cover temporary shortfalls. Its target balance of \$2,000,000 is down to \$1,564,917. GASB 54 calls for 8% of the previous year's revenue or a minimum of \$2 million to be in the Reserve Fund.
- F3. Over the last 6 years the County has spent on average \$479,000 more per year from the Main General Operations Fund than it is taking in.
- F4. The County Auditor reported that the County has not been funding its Retiree Health Benefit Program. As such the potential liability to the County as of this writing is approximately \$5.4 million dollars.
- F5. One of the trends found among the Board of Supervisors was the attitude that "someone should do something, but I am only one member."
- F6. The Board as a whole seems to be oblivious to what is really going on in the departments under its supervision.
- F7. There is no policy that addresses evaluations, supervision, or discipline of department heads being applied at this time.
- F8. Some department heads have not been evaluated for several years; yet have been receiving merit increases because a supervisor heard that they were doing a good job.
- F9. Sick Leave can be accrued and saved up over time even if not used.

RECOMMENDATIONS

- R1. The County must make additional cuts in expenses and services to balance its budget.
- R2. The Board of Supervisors must renegotiate the County's retiree Health Benefit Program to reduce its current unfunded obligation to a more affordable / manageable level.
- R3. The Board of Supervisors must install a STRONG leader in the CAO position; a leader of strong moral charter who can stay above and not be swayed by the politics of public office.
- R4. The County needs to adopt a new Sick Leave policy for its employees. A policy that has a "Cap" to the amount an employee can accrue or save over time. This benefit should be used for being sick, not as an additional perk to an employee's retirement plan. The benefit should be canceled when an employee retires or leaves their job.
- R5. The County needs to set up a separate Extended Sick Leave policy for its employees. A policy that can accumulate over time to be used for long term illnesses. The benefit should be canceled when an employee retires or leaves their job.
- R6. The Board of Supervisors should initiate long term Strategic Planning Workshops.
- R7. The Board of Supervisors must take steps to work together as a cohesive and functional unit.

The Grand Jury requests and expects a response for each recommendation herein from the Plumas County Board of Supervisors within 60 days as per Pinal Code Section 933(c)

CONCLUSION

Plumas County is experiencing the most difficult financial times since the Great Depression. For the past several years, property tax revenue, the major source of income for the County, has been declining and the County had to cut back on their main expense: labor. First they implemented a hiring freeze with some furloughs and layoffs. Then they reduced many employees from full-time to part-time status, and negotiated wage and benefit concessions. Finally the County has resorted to drawing down its own reserves. But these are all short-term repairs; no real long-term solutions have been implemented, in the hope that the economy will turn around soon and they can go back to the failed policies and spending practices as before. Throwing money at a problem seems to work when there is ample money to spend, but it only masks the problem. When money is in short supply, failed policies and practices have no place to hide.

The real problem is lack of **STRONG** leadership at the highest levels in the County. With strong leadership, difficult decisions on spending can be made. The solution therefore is to install a strong leader in the CAO position. With a strong leader, further cuts in non-essential programs can be implemented. With a strong leader, new ideas for improving the County's services and increasing revenues can be accomplished. Strong visionary leadership is the key.

Great leaders envision the future and chart a course through troubled times, doing something and not blaming others. It is time management stopped fighting among themselves and start thinking about what is best for the citizens of Plumas County. Strong leadership and strategic plans will set the path toward success.

Time is short. The County needs to face the facts and take action NOW!

The result of not taking positive action is very clear. The County will go bankrupt and the State will appoint a Trustee to administer the County until the situation is rectified, which could take years. The Trustee will have complete authority over the finances of the County and could ignore all input from county residents or elected officials to fix the problem. That would not be a good situation and must be avoided at all costs.

As voters we must pay attention to diversionary tactics, excuses for failures, and make our voices heard. As county employees we must question every process and look for opportunities for improvement in all areas of our work.

Citizens of Plumas County, the choice is ours. We cannot wait any longer for the economy to improve. We must take decisive action now.

We cannot **KICK THE CAN DOWN THE ROAD** any further.

| |
|--|
| Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury. |
|--|

GLOSSARY of TERMS

GASB 54

The Governmental Accounting Standards Board (GASB) is an independent, not for profit organization that was organized in 1984. GASB sets standards of financial accounting and reporting for state and local governmental entities. Its standards guide the preparation of external financial reports of those governmental entities.

CONTINGENCY FUND

Contingency funds are to be used only for unanticipated expenses... big or small. County-level emergencies like an earthquake, tornado, a roof caving in or replacing a damaged vehicle are examples where Contingency Funds can be used. Contingency Funds are also there for on-going, day-to-day cash flow shortages. GASB 54 suggests a three-month operating costs to be held in the Contingency Fund. For Plumas County, that equals approximately \$3,500,000.

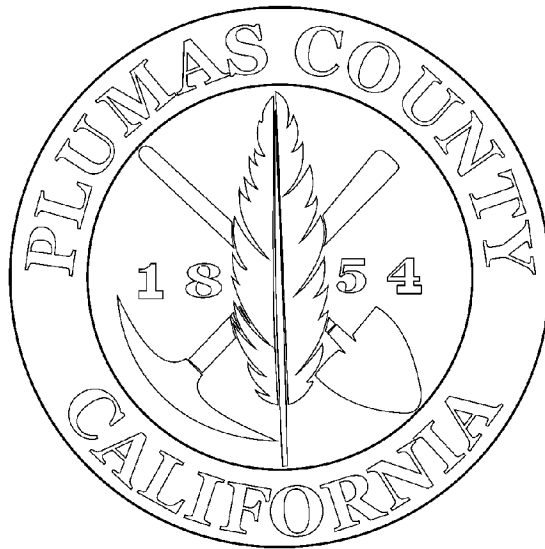
RESERVE FUND

Reserves are funds reserved for onetime expenses only.

Reserves are not to be used for on-going, day-to-day expenses.

PLUMAS COUNTY JAIL

PLUMAS COUNTY GRAND JURY



Report 2011 / 2012

2011 / 2012 Plumas County Grand Jury

Plumas County Jail Report

Table of Contents

| Subject | Page |
|--------------------------------|-------------|
| Specific Issues | 1 |
| Function | 1 |
| Purpose Statement | 1 |
| Summary of Investigation | 1 |
| | |
| Findings | 2 |
| Findings | 3 |
| | |
| Responses | 3 |
| Responses | 4 |
| | |
| Recommendations | 4 |
| Recommendations | 5 |
| Recommendations | 6 |

JAIL REPORT

SPECIFIC ISSUES

It is mandatory that the Grand Jury inspect prisons and jails within its jurisdiction. California Penal Code Section 919 (b) mandates that the Civil Grand Jury in each county shall inquire into the condition and management of the public prisons within the county.

FUNCTION

The Plumas County Sheriff's Department provides public safety, emergency service, law enforcement and security for the courts and the citizens of Plumas County. The County Jail is run by the Sheriff, an elected official. The County Jail houses people being detained while awaiting trial, those who have been sentenced to a County Jail term and those sentenced to State prison and waiting transfer.

PURPOSE STATEMENT

- To comply with the California Penal Code
- To comply with the consent decree in Pederson v. County of Plumas, United States District Court for the Eastern District of California, No. CIV S-89-1659 JFM P signed in 1992.

SUMMARY OF INVESTIGATION

The annual Grand Jury jail inspection took place on September 28, 2011. The Grand Jury was accompanied by the on-duty jail supervisor and his staff. Based on the findings of this inspection, a follow-up inspection was conducted to determine that previously discovered deficiencies had been corrected.

During the initial jail inspection the Grand Jury confirmed the existence of the active Federal Consent Decree. The Grand Jury interviewed the Sheriff and several members of his staff, each member of the Plumas County Board of Supervisors, the Plumas County Administrative Officer, the Plumas County Counsel and the Director of Facilities/Airport concerning jail operations and the Federal Consent Decree. With the exception of the Sheriff and some members of his staff no other elected or appointed County officials or employees were aware of the Federal Consent Decree.

County Counsel is now in the process of attempting to terminate the Federal Consent Decree, in the belief the conditions at the jail that led to the Federal Consent Decree have long since been corrected and the jail is currently compliant with Corrections Standards Authority (CSA) standards.

FINDINGS

The jail facility is old and has been renovated several times in an attempt to meet changing county needs. Because of its age, maintenance is difficult, labor intensive and expensive. The following inadequacies were noted:

- Perimeter security is grossly inadequate to prevent the transfer of contraband
- Damaged and missing recreational equipment
- Wiring hazards
- Damaged walls and flooring
- Unsafe furniture
- Missing emergency medical equipment
- Failure to label valves and their functions
- Failure to train staff on valve locations, functions and operations
- Interior and exterior radio/wireless phone communications still lack integration and functionality as reported by the 2010/2011 Grand Jury which raises great concern for officer, inmate and public safety
- Jail Policy and Operations Manual is grossly inadequate and outdated to a level which also raises great concern for officer, inmate and public safety
- Lack of documentation that deficiencies noted in the 2008 Fire Marshall's inspection of the jail have been corrected
- Lack of inspection documentation of the jail by the Fire Marshall since 2008. Section 13146.1, California Health and Safety Code requires inspections be made at least once every two years

- California Penal Code (CPC) Section 6030 requires that the Corrections Standards Authority (CSA) establish minimum standards for state and local correctional facilities. CPC Section 6031.1 requires CSA to inspect local detention facilities biennially. CPC Section 6031.2 requires, in part, that CSA file with the Legislature on December 30, in each even-numbered year reports which shall include information on all of the following: (a) Inspection of those local detention facilities that have not complied with the minimum standards established pursuant to Section 6030. The reports shall specify those areas in which the facility has failed to comply and the estimated cost to the facility necessary to accomplish compliance with the minimum standards.
- The 2008-2010 biennial CSA inspection of the jail reported Areas of Non-Compliance specifically noting the routine lack of sufficient staff to perform required functions, including life safety checks
- The CSA inspection report of June 1, 2010, was provided to the Sheriff with copies to the following Plumas County officials: Chairperson of the Board of Supervisors, County Administrator, Presiding Judge, Foreperson of the Grand Jury
- A Sheriff's Department spokesperson responded to the June 1, 2010, request from CSA to provide a corrective action plan in telephone conversations with a CSA Field Representative.
- The 2010-2012 biennial CSA inspection of the jail conducted on April 30, 2012, reported the same Areas of Non-Compliance concerning the routine lack of sufficient staff to perform required functions, including life safety checks as noted in the 2008-2010 CSA inspection. The jail Policy and Procedures Manual was also found to be an Area of Non-Compliance in this inspection.

RESPONSES

The following inadequacies have been addressed:

- Some recreational equipment has been replaced
- Hazardous wiring has been repaired
- Additional lighting has been added to indoor recreation room
- Some damaged walls and flooring have been repaired

After being notified of jail inadequacies the Director of Facilities/Airport took a very proactive roll to initiate repairs. On January 24, 2012, members of the Grand Jury met at the jail with the Director of Facilities/Airport at his request to review repairs made to previously reported deficiencies. The Sheriff and Assistant Sheriff responsible for the jail were also present. The Grand Jury observed the Sheriff and the Director of Facilities/Airport working together in a very industrious and innovative fashion, while facing severe budget constraints, to keep an old and literally crumbling County facility in operation.

Concerning the Jail Policy and Operations Manual, the Sheriff has advised the Grand Jury that a consulting firm has been engaged to rewrite and update the manual over a period of two years.

RECOMMENDATIONS

- The Grand Jury recommends that the Sheriff take immediate corrective action on those inadequacies noted in our Findings that can be corrected with current funding. The Grand Jury requests the Sheriff respond to this recommendation.
- The Grand Jury strongly recommends immediate corrective action be taken in updating the Jail Operations and Policy Manual, which has raised major safety concerns. The Grand Jury recommends that the Sheriff utilize his command staff and senior supervisors to accomplish this update within one hundred twenty days of this report. The Grand Jury requests the Sheriff respond to this recommendation.
- The Grand Jury strongly recommends that the Board of Supervisors make mandatory a requirement that all members of the Board of Supervisors, the County Administrator, the County Counsel and all Department Heads affiliated with jail operations tour/inspect the county jail at least annually. The Grand Jury requests the Board of Supervisors respond to this recommendation.
- The Grand Jury recognizes that additional funding will be necessary to alleviate the dangerous lack of proper radio/wireless phone communications at the jail. The Grand Jury recommends that the Board of Supervisors make available the necessary funds to allow the Sheriff to correct this dangerous situation. The Grand Jury requests the Board of Supervisors and the Sheriff respond to this recommendation.
- The Grand Jury also recognizes that the Areas of Non-Compliance noted in the 2008-2010 and 2010-2012 CSA jail inspections will require additional funding to bring the jail into compliance. It must be noted that these Areas of Non-Compliance relate directly to officer, inmate and ultimately public safety based on current staffing levels.

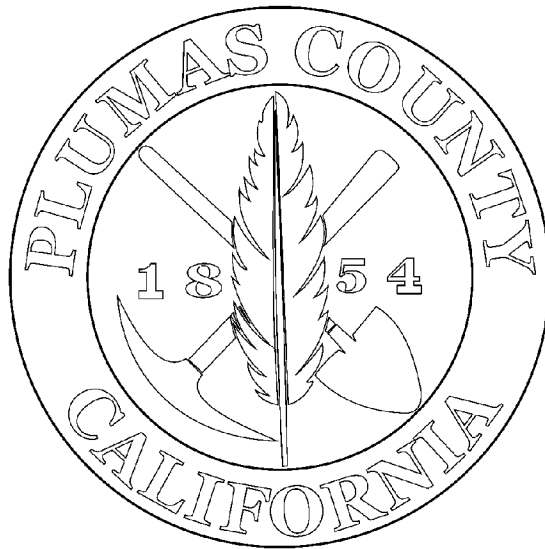
- The Grand Jury is aware of the current economic difficulties of Plumas County, and the difficult budget decisions facing the Board of Supervisors. One of the most important facets of government is public safety. With that point in mind, the Grand Jury strongly recommends and expects that the Plumas County Board of Supervisors allocate the funding necessary to correct the dangerous communications and staffing problems at the jail. Failure to do so puts Plumas County at extreme financial risk. The Grand Jury requests the Board of Supervisors and the Sheriff to respond to this recommendation.
- In a written response to the 2010-2011 Grand Jury Sheriff's Department and Jail Report the Board of Supervisors said, "Section 933.05 of the California Penal Code provides at subdivision(b), 'However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority.' [Emphasis added.] Since the Plumas County Sheriff is an elected position and the Grand Jury's report does not request a response from the Board of Supervisors, the Plumas County Board of Supervisors does not respond to the Grand Jury's findings and recommendations regarding the Sheriff's Department and Jail, except to acknowledge that the Board has read and considered such findings and recommendations."
- The 2011-2012 Plumas County Grand Jury wishes to make it perfectly clear to the Plumas County Board of Supervisors that the Grand Jury is requesting a response from the Board of Supervisors on the budgetary and personnel recommendations described in this report.
- The Board of Supervisors and the Sheriff as elected officials share responsibility for the operation of the Sheriff's Department. The Board of Supervisors has decision making authority over budgetary matters which affect the funding of overall operations for the Sheriff's Department. Certain statutory requirements must be met and maintained in the operation of a Sheriff's Department. For the most part this is accomplished by the elected Sheriff. However, without knowledgeable and responsible funding by the Board of Supervisors and strong fiscal oversight by the Sheriff it is not possible for these requirements to be met, putting public safety at risk and exposing the County of Plumas to extreme financial liability. The Grand Jury recommends and expects them to work together even more closely in this shared responsibility to solve the major problems noted in this report. The Grand Jury requests the Board of Supervisors and the Sheriff to respond to this recommendation.

- The County must focus on meeting California Standards Authority (CSA) required staffing levels in the current jail facility. The Grand Jury recommends and expects the Board of Supervisors and the Sheriff to work together to develop a viable plan for the hiring of sufficient personnel to bring the jail into compliance with CSA staffing levels. The Grand Jury requests the Board of Supervisors and the Sheriff respond to this recommendation.
- **The Grand Jury reiterates that continuing to allow the jail to operate in non-compliance leaves Plumas County open to litigation and extreme financial risk. Above all the Plumas County Grand Jury is concerned with the extreme risk this non-compliance presents to public safety.**

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

FREE FIREWOOD – but for only a few

PLUMAS COUNTY GRAND JURY



Report 2011 / 2012

2011 / 2012 Plumas County Grand Jury

Free Firewood – but for only a few

Table of Contents

| Subject | Page |
|---------------------------|-------------|
| Summary / Complaint | 1 |
| Penal Codes | 2 |
| Letter to DA | 3 |
| Criminal Acts | 3 |
| Letter from DA | 4 & 5 |

FREE FIREWOOD

BUT FOR ONLY A FEW

SUMMARY/COMPLAINT

The Plumas County Public Works Department is the county's maintenance department. The Administrative Office is located at 1834 East Main Street in Quincy. They have five yards located around the county: Graeagle, Chester, Greenville, Beckwourth, and Quincy.

The Public Works Department (PWD) is responsible for maintaining approximately 680 miles of roadways, over 500 bridges and drainage structures, and more than 5,000 road signs. As stated on the County's web site, <http://www.countyofplumas.com/index.aspx?nid=92>, "The mission of the Public Works Department includes: maintaining, repairing, designing, and constructing county roads, bridges, and storm water drainage systems in accordance with local, state, and federal laws / standards and in a manner that maximizes public safety." This includes maintaining deicer sand piles, asphalt patching, shoulder/ditch cleaning, hazardous tree/stump removal, and cutting roadside brush. All in all, they do a great job for the citizens of Plumas County.

As stated above, one of the responsibilities of the PWD is the removal of trees that have fallen onto a county maintained road and the removal of potentially hazardous trees before they fall and do damage. This is accomplished by the use of specialized heavy equipment and the expertise of trained county personnel. Once a tree is removed, it is usually transported to the nearest county yard for storage/disposal. For over 30 years, the PWD practice has been to allow its employees to take the wood for personal use as firewood. A PWD employee would come to the county yard on his own time, usually on the weekend, cut the wood up with his own equipment, and transport it to his home in his own personal vehicle.

It seemed like a reasonable way to get rid of the unwanted wood until a new county employee wanted to partake of the free firewood, too. When he asked how he could get some wood for his own personal use, he was told that it was only available to Public Works Maintenance Employees and not for anyone else. Perplexed by this seemingly unfair practice, the new county employee complained to his boss, who, in turn, complained to the PWD department head and the County Risk Manager.

When this issue was brought to the County Risk Manager's attention, she immediately called a halt to the practice until a policy, written with the advice of County Counsel and approved by the Board of Supervisors, was in place. However, that did not happen.

For many years, Plumas County had been exposed to repeated liability by allowing off duty employees access to County property and use of potentially dangerous equipment to remove County property (wood) for the Public Works employees' personal use. Described by some in the department as simply a "perk," allowing Public Works employees to take County property is embezzlement, as described under California Penal Code 504, "Embezzlement of Public Property," and is also a violation of Plumas County Personnel Codes 22.01, 22.02 and 22.04. The policies and letter below outline the violations:

California Penal Code § 504:

“Every officer of this state, or of any county, city, city and county, or other municipal corporation or subdivision thereof, and every deputy, clerk, or servant of that officer, and every officer, director, trustee, clerk, servant, or agent of any association, society, or corporation (public or private), who fraudulently appropriates to any use or purpose not in the due and lawful execution of that person's trust, any property in his or her possession or under his or her control by virtue of that trust, or secretes it with a fraudulent intent to appropriate it to that use or purpose, is guilty of embezzlement.”

Plumas County Personnel Rules:

22.01 Ethical Responsibilities: *Each officer and employee has an obligation to the citizens and government of the County to cooperate in accomplishing the County's goals, to expose corruption whenever discovered, to refrain from disclosing any confidential information, to preserve and safeguard the County's assets, and to act according to the principle that “public office is a public trust.”*
(Reference: 51 Cal. App. 2d 759, 773 (1942))

22.02 Acceptance of Gratuities: *No officer or employee shall accept any fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances resulting in:*

- (1) The use of public office for private gain;*
- (2) The preferential treatment of any person, impeding governmental efficiency or economy;*
- (3) The making of a County decision outside of official channels;*
- (4) Any adverse effect on the confidence of the public in the integrity of County*

22.04 Conflict of Interest Activities Outside of Employment: *No officer or employee shall engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties in the County service. Standards to be applied in this area shall conform to California Government Code Sections 1125-1128 and rulings by appellate courts of this State.*

Outside employment, activity, or enterprise may be prohibited by the Board if it:

- (1) Involves the use for private gain or advantage of County time, facilities, equipment, supplies, badges, uniforms, prestige, or influence of County office or employment;*
- (2) Involves receipt or acceptance of any money or other consideration from anyone other than the County for the performance of an act which would normally be part of the duties in the County service;*
- (3) Involves the performance for compensation of an act, in other than his or her capacity as a County officer or employee, which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee of the County;*
- (4) Involves such time demands as would render less efficient performance of their duties.*

2 April 2012

*The Honorable David Hollister
District Attorney
Plumas County District Attorney's Office
520 Main Street
Quincy, California 95971*

Re: *Public Works Log Disposal Policy and Procedure: Criminal Referral*

Dear Mr. District Attorney:

The Plumas County Grand Jury has discovered a matter that appears criminal in nature. The Public Works Log Disposal Policy may be in violation of California Penal Code 504 (Embezzlement by Public Officials). Since it is the policy of the Plumas County Grand Jury to forward all possible criminal activity to the Plumas County District Attorney for investigation, the plenary has voted to refer this matter to your office for review.

The attached proposed Public Works policy provides that logs collected by that department as part of their regular work assignment, would be made available exclusively to employees of the Public Works Department for personal use.

Since the logs have value, and are considered a commodity, the policy and activities at the Public Works Department appear to demonstrate elements that could be criminal in nature. The Plumas County Grand Jury also notes that County Policy, Sections 22.02 and 22.04 of the Plumas County Personnel Rules, has been in place for many years to prevent this type of criminal activity.

Thank you for your consideration in this matter.

Kind Regards,

*Frank Richardson, Foreman
Plumas County Grand Jury
Plumas County, California*

CRIMINAL ACTS

After review of information provided to the Plumas County Grand Jury, we elected to forward the investigation to the District Attorney as a criminal matter. Therefore, the Grand Jury will not take any further action on this complaint, but has left it in the capable hands of the District Attorney.



OFFICE OF THE DISTRICT ATTORNEY

520 Main Street, Room 404 • Quincy, California 95971
(530) 283-6303 • Fax (530) 283-6340
E-mail: davidhollister@countyofplumas.com

DAVID HOLIJSTER
DISTRICT ATTORNEY &
PUBLIC ADMINISTRATOR

4 April 2012

The Honorable Frank Richardson
Foreman, Plumas County Grand Jury
520 Main Street
Quincy, California 95971

Re: Public Works Log Disposal Referral

Dear Foreman Richardson:

Thank you for your referral concerning the log disposal practice of the Plumas County Public Works Department. At the present moment, I do not believe criminal charges are warranted against any individual based on this practice.

However, I do share your concern regarding this practice and have expressed the same with the [REDACTED] Public Works, [REDACTED]. Based on said conversation, I am of the belief the past practice of appropriating timber for personal use will cease and that the proposed policy attached to your referral will not be enacted. Should this practice continue it was understood from our conversation that I would notice the Plumas County Board of Supervisors of this issue and be prepared to review the individuals continuing this practice for criminal prosecution.

I did wish to share with you some thoughts concerning this practice.

At the outset, please understand the Plumas County District Attorney's Office will not issue advisory opinions as to the legality of any particular conduct. This letter, instead, is intended to express the concerns the District Attorney's Office holds concerning the proposed policy.

In sum, the proposed policy provides logs collected by the Public Works Department as part of their regular work assignment will be available exclusively to employees of the Public Works Department for personal use as firewood provided the logs are processed on the employees own time and with the employees own equipment. This policy purports to codify 34 years of past practice.

Initially, there is no question harvested timber has value and is considered a commodity. To suggest otherwise ignores common sense, years of legal precedent and Plumas County's long history as a leader in this industry.

Timber harvested by Plumas County then subsequently appropriated by individual employees for their personal use potentially subjects said persons to prosecution under Sections 503/504/514 of the California Penal Code (embezzlement) as well as personnel action under Sections 22.02 and 22.04 of the Plumas County Personnel Rules. In addition, it affirms the (I believe unfounded) negative belief many people harbor towards government employees.

Should the Plumas County Board of Supervisors or Public Works adopt the proposed policy and procedure concerning the disposal of said logs, such a policy and procedure does not provide a defense to any criminal charge or administrative action. Put plainly, the Plumas County District Attorney's Office provides no assurance activities authorized by the proposed policy and procedure, but not authorized by state law, are permissible. Persons, especially Public Works employees, should not rely upon pronouncements by county officials or the enactment of a local policy and procedure as providing any legal or equitable defense to a criminal prosecution in the face of contrary state laws.

As an aside, the proposed policy also creates an inherent conflict of interest with regard to the decision to remove trees. For example, this past Saturday morning I counted twenty trees marked for removal by Public Works on Chandler Road in Quincy between the volunteer fire station and Quincy Junction Road. During my recent conversation with [REDACTED] I was informed this number has been reduced by half (approximately). While I have full confidence in the integrity of [REDACTED] and his employees this conflict creates the perception of potential impropriety (removing trees for personal gain rather than to aid public safety) and is, I believe, poor public policy in addition to being potentially criminal.

Again, thank you for your referral. Should you have questions concerning this issue or other areas moving forward, please do not hesitate to contact me.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'D. Hollister', with a stylized flourish at the end.

David Hollister
District Attorney
Plumas County, California

PORTOLA – the Whole Story



PLUMAS COUNTY GRAND JURY



Report 2011 / 2012

2011 / 2012 Plumas County Grand Jury

Portola - the Whole Story

Table of Contents

| Subject | Page |
|---|-------------|
| Portola - the Whole Story | 1 |
| Executive Summary | 1 |
| Approach | 1 |
| Background | 2 |
| Portola City History | 3 |
| Form of Government | 4 |
| Recommendations | 4 |
| Citizens Committee | 4 |
| City Council | 5 |
| Findings | 5 |
| Recommendations | 5 - 6 |
| City Staff | 6 |
| Findings | 7 |
| Recommendations | 7 |
| Woodbridge | 7 |
| Recommendations | 8 |
| City Hospital | 8 |
| State Water Project | 9 |
| Lake Davis | 10 |
| Northern Pike Contamination | 10 |
| Water Treatment Plant | 11 |
| Costs | 12 |
| Findings | 13 |
| Recommendations | 13 |
| Portola City Water | 13 |
| Costs | 14 |
| Findings | 15 |
| Recommendations | 15 |
| Water Rate Transition Plans | 16 |
| Additional Information | 17 |
| 20/2020 Water Conservation Plan | 17 |
| Use it or Lose it | 17 |
| Waste Not – Want Not | 17 |
| BDCP Bay Delta Conservation Plan | 17 |
| Recommendations | 18 |
| Financial Condition | 18 |
| Conclusion | 19 |
| Post Script | 19 |
| Bibliography | 20 |
| Appendix A - Proposition 218 | 21 |
| Appendix B - Enterprise Fund | 22 |
| Appendix C - Water Treatment Plant Chronology | 23 - 24 |
| Appendix D - Portola Water Utility Chronology | 25 - 28 |
| Glossary of Terms | 29 - 30 |

Portola

The Whole Story

EXECUTIVE SUMMARY

The Plumas County Civil Grand Jury was tasked to look into the City of Portola's finances. The focus of the investigation was to determine if the city was spending money foolishly; losing money in its Enterprise Fund (*) specific to the water/sewer system, determine if the new water/sewer rates were justified, and to make sure that the Proposition 218 (**) process, required to increase water/sewer rates, was being followed correctly and legally. The Grand Jury found that the City of Portola was indeed in compliance with Proposition 218, and an increase in water rates was warranted. The Grand Jury found no evidence of malfeasance or misfeasance by the City Council or by the city staff. However, the processes, procedures and methods the City Council used are open for scrutiny and are the subject of this report.

APPROACH

The Grand Jury reviewed the California Constitution Article XIII (C) and Article XIII (D) called the "Right to Vote on Taxes Act," commonly known as Proposition 218.

The Grand Jury interviewed all five City Council members, the City Manager, the City Public Works Director, as well as toured the city's Water Treatment Plant. The Grand Jury reviewed all the Minutes from the City Council meetings for the years of 2010 and 2011, and attended all City Council meetings from September 2011 thru June 2012. In addition, the Grand Jury interviewed the City's legal counsel, and the City's Financial Officer who are both independent contractors to the City. The Grand Jury reviewed City and County financial reports and budgets from 2005 thru 2011. The Grand Jury also interviewed several people from the Portola Citizens Committee, the County Board of Supervisors, (BOS), and former BOS members who were in office during the time the water treatment plant was being approved and funded.

(*) Enterprise Fund

An enterprise fund establishes a separate accounting and financial reporting mechanism for municipal services for which a fee is charged in exchange for goods or services. Under enterprise accounting, the revenues in expenditures of services are separated into separate funds with its own financial statements, rather than commingled with the revenues and expenses of all other government activities.

(**) Proposition 218

Prop 218 requires local governments to have a vote of the affected property owners for any proposed new or increased assessment before it could be levied. Prop 218 was passed by California voters on November 5, 1996, and effective on July 1, 1997.

BACKGROUND

A dispute erupted in Portola, a small town of just over 2000 residents located in the eastern portion of Plumas County in Northern California. The dispute began in early 2011, when faced with a large shortfall in the Sewer & Water Enterprise Fund. The Portola City Council decided they needed to raise the rates to make up the difference between the cost of water delivery and what was being billed. The City Council unanimously voted to hire HDR Engineering, a large respected Civil Engineering firm to come in and study the water rate issue and offer several options to consider. The result of their four-month study was presented to the City Council in January 2011. The study was extensive and contained five different options.

As required by Proposition 218 (**See Appendix A**), the City Council held several meetings in early 2011 to discuss the water rate issue. The meetings were open to the public but few citizens attended. The issue reached a boiling point in April and on May 11, 2011, at a regular meeting of the City Council, two wavering Council members suggested it might be a good idea to step-back and reevaluate the rate increase, thus giving people time to study the issue and contribute their ideas. It was suggested that an “*ad hoc*” (*) committee be formed for that purpose. With the Councils approval, the Mayor appointed an *ad hoc* committee consisting of the two wavering council members with an objective of researching alternatives to a water rate increase and to report back to the Council at the next regular meeting.

The *ad hoc* committee appointed by the Mayor –correctly– did not include public citizens, and when the citizens were invited to attend the committee’s first meeting, they assumed an authority they did not have. The citizens were under the impression that they were the *ad hoc* committee, and even put together a web site with an *ad hoc* title. Later postings to their web site said they were not part of the “*ad hoc* committee” but were a “citizens committee” and they were only trying to help the committee with its investigation.

An *ad hoc* committee serves at the pleasure of the Mayor who appointed it. The Mayor can dissolve it if it does not adhere to the established goals.

The *ad hoc* committee held several meetings with no positive results, so in June 2011 when the Mayor saw what was being posted on the Citizens Committee’s web site, the Mayor felt they were going in the wrong direction, and therefore disbanded it. The Mayor then left the country for three weeks on personal business and during the Mayor’s absence, the Mayor pro tem reinstated the *ad hoc* committee. Upon the return of the Mayor, the *ad hoc* committee was disbanded a second time for the same reason.

At the regular meeting of the City Council on July 13, 2011, with no meaningful input from the *ad hoc* committee, the City Council voted 3-2 to approve Resolution No. 2095, the utility rate increase, (option #1) as proposed by HDR Engineering.

(*) *ad hoc* is a Latin phrase meaning “for this”

Definition: A committee formed for a specific task or objective, and dissolved after the completion of the task or achievement of the objective. (It generally signifies a solution designed for a specific problem or task, non-generalizable, and not intended to be able to be adapted to other purposes. Common examples are organizations, committees, and commissions created for a specific task)

After the vote was taken, a few local citizens who were against any rate increase accused the Mayor of pushing through a rate increase without the proper study of alternatives, and without their input. Infuriated by the results, the citizens successfully petitioned for a recall election of the Mayor on April 10, 2012.

PORTOLA - HISTORY

Between 1906 and 1909, the village of Portola had 5 different names. During that time, the name Portola was suggested at a festival in San Francisco honoring the Spanish Explorer Guadeloupe Portola. The name caught on and was approved and accepted by the US Post Office in 1909. During that year, Western Pacific Railroad announced it would establish a division in Portola, and on August 14 the Plumas County Board of Supervisors formally approved a city map for the new town and Portola was born. On April 10, 1910 the US Post Office opened its first office in the young town of approximately 200 people.



The town grew considerably during the early 1900's as a result of a booming lumber business and a railroad head. In 1913, in 1934 and again in 1945, voters narrowly defeated measures to incorporate the small town into a city. Finally on May 9, 1946 voters approved incorporation by a vote of 513 to 337 and Portola became a city. Then on May 30, 1946 the first city officials were sworn into office.

In 1953 Portola purchased its first water system from a private developer. During this time it became obvious the city needed a more substantial water source, and in March of 1955, it was proposed that Willow Creek would be the primary source of water for the city. Later that year, Portola propose the purchased of water rights to Willow Creek and approved construction of the north side reservoir near the Willow Creek Diversion Dam. In December 1955, a measure to sell Water Bonds totaling \$225,000 was approved by an overwhelming majority of Portola voters. In August 1956, with funding now in place, construction began on the new water system which included a 1.5 million gallon north side reservoir. In October 1956, Portola voters approved the sale of Bonds to fund the city's sewer and water systems, plus the construction of a new elementary school.

FORM OF GOVERNMENT

Portola has a “weak-mayor” form of government. This form of government is common to most small cities across the country. In a weak-mayor system, the Mayor is a figurehead and has no formal authority outside of the Council. He or she cannot appoint or remove officials and lacks veto power over Council votes. As such, the Mayor's influence is solely based on his/her personality in order to accomplish desired goals. The weak-mayor form of government is a product of Jacksonian democracy. It comes from the belief that if politicians have few powers and many checks, they can do relatively little damage.

The Mayor is a City Council member elected by fellow Council members. The Mayor position is rotational with the other council members and has a term of one year. The Mayor, or Mayor pro-tem, may move, second and debate from the Chair, and are not deprived of any rights or privileges other council members have simply because they occupy the Chair. The Mayor presides over all regular and special meetings of the City Council.

The City Manager/Administrator is a professional manager and is employed at the pleasure of the City Council. In a weak-mayor form of government, the City Manager cannot settle political disputes and is not authorized to take action on-their-own. The City Manager is responsible for the day-to-day operations of the city.

The City Manager is also responsible for preparing budgets, hiring administrative officers, overseeing record keeping, and supervises all departments. The City Manager attends all City Council meetings and advises the Council on issues and programs. The City Manager prepares long-range plans for city services and develops specific proposals regarding the city's needs. The City Manager also prepares the Agendas for all City Council meetings.

The City Manager receives a salary or other compensation as the City Council and the City Manager may agree to from time to time and fix by resolution or contract.

RECOMMENDATIONS

- R1. The Grand Jury strongly recommends the city maintain the “weak-mayor” form of government.

CITIZENS COMMITTEE

The Citizens Committee was formed as a reaction to the City Council's handling of the water rate issue and the manner in which the Counsel conducted itself. The Citizens Committee holds by-weekly meetings and has offered several ideas to the City Council.

CITY COUNCIL

The City Council is comprised of 5 elected members from the local community. Their term of office is 4 years and the elections are held alternately so there is no time when a full council is up for re-election.

FINDINGS

- F1. The City Council fails to ask pertinent questions and verify information provided by the city staff. Most items placed on the City Council's Consent Agenda are approved without any public discussion.
- F2. Members of the City Council did not know the simplest things about the city's financial condition. When asked how much money the city had in its bank accounts, none of the five council members knew the answer. One member even stated that **"it was none of my business to know."**
- F3. The City Council makes decisions and approves expenditures at every bi-weekly meeting without knowing how much money is available. They rely totally on the City Financial Officer (CFO) for that information. If the CFO says they have the money, they usually approve all expenditures without discussion.
- F4. The city staff provides City Council members with an information packet 5 days before every meeting. The packet contains documentation and information regarding items up for discussion on the Agenda. It appeared that only two City Council members took the time to study the information so they were informed and asked appropriate questions of the Staff during the meeting.
- F5. There is no meaningful debate among City Council members in a public forum on Agenda items.
- F6. There were many discrepancies between City Council members regarding the amount of money spent on the Water Treatment Plant and other city expenditures.

RECOMMENDATIONS

- R1. Council members should debate Agenda items up for a vote during the meeting so the citizens will know the position each Council member has on a particular issue.
- R2. Council members must study the information packets presented to them by city staff prior to their bi-weekly meetings in order to make informed decisions at the meetings.
- R3. Council members should show respect and dignity to citizens who come before them with questions and suggestions.
- R4. The Mayor should be educated on proper meeting decorum. All City Council members should be familiar with "Roberts Rules of Order" and "The Brown Act."
- R5. The Mayor must run a controlled meeting adhering to a pre-allotted time for citizens to speak and not allow them to defame or behave in an unprofessional manner.

- R6. The City Council must be cautious of placing too great a work load and stress on the city staff. Already understaffed and overworked, the Staff is near a breaking point and it would be a disaster to the city if even one of these specialized employees quit their job. The time it would take to replace any one of these employees could take months and that would have a huge negative impact on the city's operation.

CITY STAFF

The City of Portola is managed and run on a day-to-day basis by a staff of eight men and women. These eight people have the responsibility of administering and performing all the work needed to run the city, including such duties as: street repairs, snow removal, equipment maintenance, sewer and water systems, solid waste collection, public parks and much more.

The working condition for the city staff is good. All staff members get along well in an atmosphere of harmony and goodwill. The Grand Jury could find no evidence of any peer pressure or backstabbing within the city staff's personnel.

The city staff employs an open-door policy and a cordial demeanor to all who come to visit City Hall. Even under trying circumstances and when faced with adversarial people, the city staff have always responded in a polite and professional manner. **They are to be commended for a job well done even under adverse circumstances.**

The City Manager and the Public Works Director are administrative /salaried positions, and the six remaining employees are paid an hourly wage. All eight employees receive a health insurance program and CalPERS (California Public Employees Retirement System) as part of their employment package. Step increases are still available upon a favorable employment review; however there is no COLA (Cost of Living Allowance) as part of their employment package. The benefits package is discontinued and is no longer an expense to the city if an employee retires or leaves their position.

The city also employs one part-time employee and two temporary /as needed employees. The part-time employee receives an hourly wage and CalPERS. The two temporary employees are paid an hourly wage with no benefits included.

The city also employs two outside contractors. The city's legal counsel and the city's finance officer are both independent contractors to the city. They are paid per a negotiated service contract and do not receive any employee benefits. Both legal counsel and the finance officer are paid a fraction of what they could receive in a more lucrative employment outside of the city. **They are to be commended for a job well done under trying circumstances.**

In recent years, the city lost three hourly wage employees. Because of the economic downturn, the city staff, with the approval of the City Council decided not to replace these employees and to get by with what they had; filling in with temporary employees as needed. This 30% reduction in staff equates to a 20% reduction in employee wages per year.

It should be noted that the city staff's workload has increased in recent years in great part due to a seemingly never ending assortment of new State Regulations coming in on a regular basis. These new regulations require a substantial amount of time to adapt and implement, not to mention the extra time and effort just to keep up with all the paperwork associated with each new regulation. In the past year, Portola has been burdened with no less than 10 new regulations, all of which carry a large penalty /fines if not followed to the letter. The following is a partial list of some of these regulations:

- 1) Department of Water Resources: Monthly Urban Water Production Report
- 2) Housing and Community Development: 5th update due June 30th 2012
- 3) Air Resources Board: Cap-and-Trade /Reduction of Greenhouse Gases
- 4) Regional Water Quality Control: Biological Wetlands preservation study
- 5) Department of Water Resources: Flood Protection Criteria report
- 6) Public Resources Code 3850: Methane Gas Hazards Reduction Act
- 7) Public Resources Code 5000: Streets and Highways Standards

FINDINGS

- F1. The constant increase of State regulations is very burdensome and time consuming and requires a full time professional to manage and interpret the ever changing regulations.
- F2. The city staff is performing its duties in a coherent and professional manner. Understaffed and wearing many different hats from time to time, the city staff has demonstrated a professional adherence to their positions and responsibilities.

RECOMMENDATIONS

- R1. The Grand Jury could find no significant deficiencies with the city staff and therefore recommends they keep up the good work.

WOODBIDGE

In May 2004, a real-estate development company from Sacramento purchased 398 acres of undeveloped land on the south side of Portola for the purpose of developing a planned community called Woodbridge.

The 20 year master plan includes the construction of a mixture of medium density rental apartments, condominiums, live /work residences, cluster residential and conventional single-family homes. The company envisioned the community to include amenities for office space, entertainment, lodging, dining, retail stores and a distinct village center. When fully developed, Woodbridge would provide homes for 1700 new residents; nearly double the population of Portola. Mandated by the State, 12% of the entire project will be designated as affordable housing.

The sale netted the city over \$3,000,000 dollars in much needed income. As part of the sales agreement, Portola committed to improve the downtown public areas and the south end of Gulling Street, which is one of the two entrances to the Woodbridge development. In addition Woodbridge agreed to donate 1.75 acres of land (Parcel #22) to the State for the construction of the Plumas /Sierra Regional Courthouse, located at the south end of Gulling Street. Also as part of the purchase agreement, Woodbridge bought Portola a new Fire Truck.

Essential to the project and mandated by the State was access to an ample supply of water. The city went to great lengths from 2004 thru 2006 to ensure the acquisition and completion of the new water treatment plant, without which the project would have been doomed.

Despite the economic downturn which has delayed the project, Woodbridge Corp. remains committed to the project. In a time when growth is so badly needed in Portola, Woodbridge is a godsend to the local community.

RECOMMENDATIONS

- R1. The Grand Jury recommends the city cooperate fully with the Woodbridge development project to insure its completion.

CITY HOSPITAL

Portola's main asset is its hospital. Located at 500 First Avenue in Portola, Eastern Plumas Health Care (EPHC), services all of Eastern Plumas County and Northern Sierra County. The non-profit, critical access hospital has been providing comprehensive medical services to Plumas County since 1971. The hospital is the city's largest employer with a staff of 270 full time, part time and per diem employees of whom 194 are full time. EPHC operates a 9 bed Acute Care Center at the Portola location which also includes a 24 hour physician staffed emergency room and ambulance service. EPHC is one of the most vital businesses in Portola and Eastern Plumas County and Sierra County.

Like most businesses in the area, EPHC has experienced hard economic times in recent years. Overburdened by a large real estate loan obligation, the hospital was in danger of going bankrupt. With no viable options remaining, the hospital approached the city for help, and after much discussion it was determined that if the hospital could rid itself of this large responsibility, it would be able to survive. Working with the city staff, city's legal counsel and the financial officer, the City Council in October 2011 agreed to loan the hospital \$348,000 to pay off its existing obligation. This drastically reduced the hospitals monthly payment from over \$5200 per month to only \$348.00 per month and it eliminated a nearly \$300,000 balloon payment due in 2013. This arrangement with the City of Portola was a major benefit to the hospital. Both the city and the hospital were winners in this agreement and so were the residents of Portola and of Eastern Plumas County for it saved the hospital and prevented a devastating impact on the whole community. The city staff, the city's legal and financial consultants and the City Council should be commended for taking positive action that saved the hospital and quite possibility the City of Portola.

STATE WATER PROJECT

The California State Water Project (SWP) is the largest publicly built and operated water conveyance system in the world. The SWP delivers potable water throughout the State thru a system of storage reservoirs, aqueducts, power plants and pumping stations. Its main purpose is to store water and distribute it to 29 different urban and agricultural water agencies under contract in Northern California, the San Francisco Bay Area, the San Joaquin Valley, the Central Coast, and Southern California. Of the contracted water delivered, 70 percent goes to urban users and 30 percent goes to agricultural users.

The project began in 1957 with the construction of the Oroville Dam. Later the project included the San Luis Reservoir, the California Aqueduct System and the Grizzly Valley Dam / Lake Davis Reservoir among others. Construction on the system continued into the 1990's and upgrades and maintenance on the system continue to this day.



Funding for this massive project came from the sale of general obligation and revenue bonds, which accounted for about 78 percent of the cost of construction. Full repayment of these bonds is being made by the project beneficiaries, rather than by the general taxpayer. The project beneficiaries are the 29 urban and agricultural users of which Plumas County is one. Plumas County signed a contract with the State in December, 1963 for its current water rights. The 75 year contract expires in 2038.

LAKE DAVIS

Lake Davis is located in the northern Sierra Nevada seven miles north of Portola, California. The reservoir was created in 1967-68 by the construction of the Grizzle Valley Dam as part of



the State Water Project.

Lake Davis is located at 5,785 feet above sea level and has a surface area of 4,030 acres. The reservoir has a shoreline of 32 miles and holds a capacity of 84,370 acre feet of water. (One acre foot of water equals 325,851 gallons)

When the dam was constructed, it was intended to be the primary source of water for the City of Portola.

Because water from an open lake cannot be used directly as a water source to an urban population, a Water Treatment Plant had to be constructed. In 1968 a contract was negotiated between the State and County to construct a Water Treatment Plant downstream from the Dam for that purpose.

NORTHERN PIKE CONTAMINATION

In 1996-97 Lake Davis was in the national spotlight as a result of Northern Pike contamination and the possibility of having to poison the lake to remove them. Northern Pike is a species of carnivorous fish found in fresh water lakes in the Northern Hemisphere. Lake Davis was overrun by Pike population, and the California Department of Fish and Game (DFG) feared that this aggressive fish would escape the lake and enter the Sacramento River system, posing a potential threat to native fish species such as Steelhead Trout and Salmon.

After much money and effort to rid the lake of Pike, through explosives, nets, and shocking, all of which were unsuccessful, the DFG decided to treat the lake with rotenone, a naturally occurring chemical deadly to gilled creatures. The effort was extremely controversial and met with much resistance from the locals, many of whom tied themselves to the dam in protest of the poisoning.

The DFG received the necessary permits by October 1997 and on October 14, 1997 treatment with powered rotenone and liquid Nusyn-Noxfish began. The lake still held 50,000 acre feet of water at the time of treatment; 20,000 acre feet more than it would have had the project not been delayed by a restraining order. By late November of that year it was determined that most of the treatment chemicals had degraded except for Piperonyl butoxide (PBO).

The persistence of this synergistic chemical was aided by a thick icecap and low water temperatures and because of its presence, restocking with Rainbow Trout was delayed until June of 1998. Unfortunately in May 1999 Northern Pike were again discovered in Lake Davis.

In September 2007 the Department of Fish and Game attempted to eradicate Northern Pike in Lake Davis a second time by lowering the lake and treating the remaining water with Rotenone. This time, as a result of a massive public relations effort by the DFG little resistance from local citizens was experienced and the eradication went ahead as scheduled.

Following the apparent success of the project, a letter dated May 7th, 2008 from the Department of Public Health certified that Lake Davis was free of all chemical constituents associated with the process. As a result, Lake Davis was approved for use as a drinking water source and can be returned to service once the new water treatment plant was completed.

On May 17th, 2008 the DFG released 11 tons of the hearty Eagle Lake Rainbow Trout into Lake Davis, and as of this writing no Northern Pike have been detected.

The financial impact on the community over the ten year period was significant. The loss of revenue and the loss of Lake Davis as a potable water source were recognized by the courts, and as a result the State awarded \$9,176,000.00 for "economic and infrastructure assistance to the City of Portola and the County of Plumas." \$2,058,333 went to the County; \$250,000 went to the new water treatment plant construction; \$4,000,000 was set aside for personal injury and property damage claims, and \$2,867,667 was awarded to the City of Portola.

WATER TREATMENT PLANT

In the fall of 2008, under contract to the US Army Corps of Engineers, a construction firm from Sacramento named ERRC (Engineering and Remediation Resource Group) began construction of a new microfiltration water treatment plant on the site of the old plant, just one mile downstream from the dam. The new water treatment plant was built to treat raw water



from Lake Davis to provide the City of Portola with a dependable potable water supply.

The Plant covers an area of approximately 10 acres and has a site elevation of 5,640 feet above mean sea level. The facilities include a water storage tank, a carbon filtration unit, a storage building, a filter building, two pressure filters, and two wastewater recovery ponds.

The primary structure is a pre-engineered steel building of approximately 4,500 sq. ft. in size with a concrete floor, R-32 insulation throughout, and overhead lighting.

This state of the art facility contains the microfiltration system, a backup up filter system and a computer control room which monitors the entire plant and sends relevant information to monitoring facilities in Portola and Sacramento. This automated plant requires minimal man power to run and can produce up to 1.5 million gallons of treated water per day.

Construction began in June of 2008 with the demolition of the old treatment plant and building continued thru April 2009. Upon completion, it was determined that the pipeline and two large control valves were damaged during the winter shutdown. Replacing the custom made valves and repairing the damaged pipeline added 2 years and \$250,000 in extra costs to the project.

There has been much discussion as to the exact cost of the new water treatment plant. Estimates range from \$3.6 million to \$9.3 million. Part of the confusion stems from the fact that four different government agencies, each with their own unique book keeping methods, were involved in funding the project. Federal, state, county and city governments all made contributions to the project. In its thorough investigation of these different entities, and reviewing their financial records, the Grand Jury established the following:

| | | |
|--|-------------------------|-------------|
| Project Budget (including pipeline) | \$ 6,651,966.95 | |
| Total Expenditures as of December 2011 | <u>\$(6,328,745.85)</u> | |
| Balance Remaining in the Total Budget | \$ 323,221.10 | |
| Breakdown of Contributions: | | |
| City of Portola * | \$ 1,154,278.00 | 17% |
| Flood Control District and County * | \$ 1,538,707.00 | 23% |
| State Safe Drinking Water Revolving Fund | \$ 1,000,000.00 | 15% |
| Plumas County Sinking Fund * | \$ 115,000.00 | 2% |
| State Lake Davis Settlement (1997) | \$ 250,000.00 | 4% |
| US Corps of Engineers | \$ 2,500,000.00 | 37% |
| City/County In-Kind Contributions * | <u>\$ 93,981.95</u> | 1% |
| Budget Total | \$ 6,651,966.95 | 100% |
| * City/County Contributions | \$ 2,901,966.95 | 44% |

Note: The information above was gathered from several sources: Records from the US Army Corp of Engineers, The State Water Board, The County Flood Control District and the City of Portola. All four agencies had slightly different numbers on file. The figures presented here are a merging of all these sources.

FINDINGS

- F1. The Grand Jury found the final cost for the treatment plant is not consistent; it depends on which agency gave the information.
- F2. The City of Portola paid a total of \$1,154,278 for the water treatment plant, 17% of the total construction costs. State and federal funds accounted for 56% of the cost.

RECOMMENDATIONS

- R1. The Grand Jury recommends the city fulfill its contractual obligation in obtaining; operating and maintaining the water treatment plant and insure Lake Davis as a primary source of potable water.

PORTOLA CITY WATER

Currently, Portola receives its water from four wells located in and around the city. The most desirable well is Willow Creek, located about four miles west of Portola. Three other wells are located in the city and are used as a secondary supply and for fire protection. Water coming from Lake Davis and the water treatment plant will supplement the Willow Creek supply. During the winter when water usage is low, Willow Creek will supply the majority of the city's water needs.

The three wells located in the city were drilled during the Lake Davis poisoning as a backup to the Willow Creek well. Like most water wells drilled in volcanic rock, they contain small levels of arsenic, approximately 23 ppb (parts per billion). In 1975, the Environmental Protection Agency (EPA) established a safe arsenic level of 50 ppb for drinking water. However, in January 2001, the EPA established a new standard of 10 ppb. This higher standard renders the three new wells unacceptable for drinking and therefore useless except for fire protection. The wells can be brought up to the new standards with the installation of arsenic filters, but these filters are expensive costing approximately one million dollars each.

Lake Davis and the water treatment plant provide an ample supply of arsenic free drinking water. If Portola is to attract future development it must provide an ample supply of water. Any new development like Woodbridge must have adequate water as mandated by State building codes. Lake Davis and the water treatment plant meet that mandate.

For the calendar year of 2012, Plumas County paid the State \$138,000.00 for its annual allotment of 2320 acre feet of fresh water from Lake Davis. Of that amount, Portola paid \$50,185.00 for its allotment of 665 acre feet of water. The allotment which has been increasing since the contracts conception in 1966 maxes out in the year 2016 at 2700 acre feet for the County and 675 acre feet for the City of Portola. This contracted annual expense is continuous whether the water is used or not. The contract with the State expires in 2038.

Portola, like most municipalities operates its Sewer /Water and Garbage Disposal Utility as an Enterprise Fund (**See Appendix B**). An Enterprise Fund is similar to a private business in that it is responsible for and manages its own income and expenses. The Enterprise Fund supports itself and is not supposed to rely on any outside funds like the city's General Fund for support. An Enterprise Fund is intended to operate as its own independent entity, and funds are not co-mingled with any of the city's other accounts.

Portola's water rates are based on a Base Rate / Usage System. The more water a person uses, the larger the monthly charge. The problem with this type of billing system is that when usage decreased due to drought or a conservation effort, the city loses income.

As a result of the poor economy and the increased expense of additional State regulations, Portola has been losing money in its Enterprise Fund for the past four years. The following is an accounting of this predicament.

2011/2012 Projected Cost:

| | |
|--------------------------------|---------------------|
| Lake Davis Water Purchase | \$ 50,185.96 |
| Water Treatment Plant Expenses | \$139,574.00 |
| Water Department Expenses | \$148,790.59 |
| Personnel | \$220,564.00 |
| Capital Outlay | \$ 50,481.21 |
| Debt Service | \$ 55,698.00 |
| Sinking Fund (Reserves) | <u>\$ 45,835.00</u> |

2011/2012 Total Costs **\$711,128.76**

2011/2012 Projected Income: \$547,084.00

2011/2012 Net Loss: **(\$165,858.80)**

2010/2011 Net Loss: (\$216,704.53)

2009/2010 Net Loss: (\$ 44,941.46)

2008/2009 Net Loss: (\$ 14,179.70)

Total Accumulated Debt to Date: **(\$441,684.49)**

Source: *Chief Financial Officer for the City of Portola*

FINDINGS

- F1. Portola has been struggling with obtaining and maintaining access to affordable drinking water since its inception as a city in 1946.
- F2. The City of Portola is losing approximately \$200,000 per year in its Sewer / Water Enterprise Fund.
- F3. The citizens of Portola are experiencing severe economic hardship.
- F4. The citizens of Portola are being asked to use less water and pay more for it.
- F5. Portola pays for an allotment of approximately 665 acre feet of water each year whether they use it or not.
- F6. Portola is using a total of approximately 350 acre feet of water each year. This is about half of the allotment purchased from the State each year for Lake Davis water.
- F7. In May of 2008, water from Lake Davis and the water treatment plant were certified safe for drinking by the State Department of Public Health.
- F8. The Prop 218 process was completed properly by the City Council and city staff.

RECOMMENDATIONS

- R1. The city should leave the current increased rate in place, but review each year.
- R2. The city should modify its water rates schedule to offer customers three Base Plans, i.e.: 2000 gallons per month, 6000 gallons per month and 10,000 gallons per month. Customers could choose the plan that best suits their needs and be charge extra for usage over and above their Base Plan.
- R3. The city should modify its billing schedule so that the Base Plan will cover the majority of the fixed costs for the system and the usage portion should cover the majority of the delivery expenses. This type of billing system will insure the city has enough funds to operate its system even in drought and conservation conditions.
- R4. Modify the monthly utility bill to reflect more clearly the exact costs of water, sewer, solid waste and land fill fees.
- R5. The city in conjunction with an independent rate consultant should prepare and publicize an annual water / sewer rate study. The city should review the rates for each upcoming year by analyzing current costs and projected revenues under existing rates. The city should publicize the report at least 60 days before any changes in rates are made.
- R6. Portola has to take immediate steps to keep its remaining customer base and increase it if possible. Portola must keep service rates affordable and to offer incentives for business and residents to come in and take up residence in the city.

WATER RATE TRANSITION PLANS

BY HDR Engineering - January 2011

Option 1 - Rate Transition Approach

| | FY 2011 | FY 2012 | FY 2013 | FY 2014 | FY 2015 | FY 2016 |
|------------------------------|-------------|-------------|------------|---------|---------|---------|
| Monthly Bill | \$31.72 | \$41.15 | \$52.65 | \$66.90 | \$77.78 | \$86.65 |
| \$ Difference | \$0.00 | \$9.43 | \$11.50 | \$14.25 | \$10.88 | \$8.87 |
| Cumulative Difference | \$0.00 | \$9.43 | \$20.93 | \$35.18 | \$46.06 | \$54.93 |
| Annual Shortfall | (\$125,053) | (\$157,436) | (\$43,488) | \$160 | \$765 | \$206 |
| Monthly Shortfall | (\$10,421) | (\$13,120) | (\$3,624) | \$13 | \$64 | \$17 |

ADDITIONAL INFORMATION

20x2020 WATER CONSERVATION PLAN

On February 28, 2008 Governor Schwarzenegger sent a letter to the State Senate outlining his plan to reduce urban water usage by 20% by the year 2020. His plan called the 20x2020 Water Conservation Plan was subsequently drafted into Senate Bill X7-7 and was signed into law in November, 2009. The law sets in motion a range of activities designed to achieve a 20% per capita reduction in urban water usage by 2020. Urban water suppliers are required to establish water conservation targets for the years 2015 and 2020. The details of how the State plans to achieve this goal can be viewed on-line in its entirety at:

<http://www.water.ca.gov/wateruseefficiency/sb7/docs/20x2020plan.pdf>

USE IT OR LOSE IT !!

Portola currently has an abundant source of clean, fresh potable water. However this valuable resource is in danger of being taken away by powerful environmental and political forces downstream and in Sacramento.

WASTE NOT, WANT NOT

Portola has a valuable resource to attract new customers. Reasonable water rates will not only preserve the city's customer base but will attract new business to the city. Moderation is the key. Use water wisely without wasting. Wasting water is against the law:

ARTICLE 10, SEC. 2 of the California Constitution states:

"It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare."

BDCP

The Bay Delta Conservation Plan (BDCP) is being prepared by a group of central valley water agencies, environmental and conservation organizations, state and federal agencies, and other interest groups.

The BDCP is being developed in compliance with the Federal Endangered Species Act (ESA) and the California Natural Communities Conservation Planning Act (NCCPA). When complete, the BDCP will provide the basis for the issuance of endangered species permits for the operation of the state and federal water projects. The plan would be implemented over the next 50 years. The heart of the BDCP is a long-term conservation strategy that sets forth actions needed for a healthy Delta.

Northern California farmers and business are up in arms about their proposal to take 75% of the river flows and use them to save the fish and preserve the Delta. The BDCP wants to take 65 thousand acres of farm land out of production and return it to a wet land marsh for the birds. Part of their plan is the construction of an underground water diversion cannel to take water from Northern California and completely by-pass the Delta in order to save the endangered species there.

Quoting from their web site:

<http://baydeltaconservationplan.com/Home.aspx>

"The Bay Delta Conservation Plan (BDCP) is designed to achieve the co-equal goals of providing for the conservation and management of aquatic and terrestrial species, including the restoration and enhancement of ecological functions in the Sacramento-San Joaquin River Delta, and improving current water supplies and the reliability of water supply delivery conveyed through the State Water Project (SWP) and the Central Valley Project (CVP)."

RECOMMENDATIONS

- R1. Use the water wisely, and abundantly. Do not waste.
- R2. Don't give up Portola's water rights or let them be sold to powerful political interests downstream.

FINANCIAL CONDITION

Compared to most cities in the country, the City of Portola is in good financial shape. The city has over \$3.2 million in its Local Agency Investment Fund (LAIF) earning a competitive interest rate for a conservative investment of 1% APR. The expected revenues for FY 2012 / 2013 are \$2.6 million and the projected expenses are approximately \$2.4 million. Out of this amount, approximately \$300 thousand is being used to pay down the principal on loans or funding the Sinking Fund in Water and the Landfill closure in Solid Waste.

A recent audit of the city's finances was performed by the independent audit firm of GALLINA, LLP, a Certified Public Accountant firm located in Roseville, CA. The audit concluded that for the physical year of 2010/11 the CFO's accounting accurately represented the city's financial position, that the "financial statements were free of material misstatements and that acceptable accounting practices were followed."

CONCLUSION

Considering the poor economic times, the City of Portola is in relatively good financial shape. This is due in great part to the city receiving a large settlement from the sale of nearly 400 acres to the Woodbridge Corporation and the funds received from the Lake Davis settlement. Unfortunately these funds are nearly gone and the city is standing on the threshold of two completely different paths. One path will lead to financial doom and bankruptcy, the other to healthy growth and prosperity.

The city has great assets in its rail head, river access and ample water supplies. These assets if use properly can attract new business and the city will prosper.

Portola's future depends purely on its management. Foresight and vision will lead to prosperity. Greed and pettiness will lead to bankruptcy and doom. It is as simple as that. **Citizens of Portola, the future is in your hands.**

POST SCRIPT

May 15, 2012

Budget Adoption Workshop Meeting – Portola City Hall

After attending the City Council meetings, the Grand Jury felt this meeting was great! There was no fighting, no loud voices, and no interruptions. The meeting was civil, orderly, and constructive. Much was accomplished in this new spirit of cooperation and mutual respect. Exactly what the Grand Jury recommends in this report.

All in attendance including City Council members, city staff, and local citizens should be commended for a job well done.

| |
|--|
| Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury. |
|--|

BIBLIOGRAPHY:

Notable among the many documents examined by the grand jury are the following:

1. The text of Proposition 218, Articles XIII C and XIII D of the California State Constitution.
2. Proposition 218: Local Agency Guidelines for Compliance, Association of California Water Agencies, 2007.
3. Howard Jarvis Taxpayers Association v City of Fresno, 127 Cal. App. 4th 914 (2005) (March 23, 2005).
4. Bighorn-Desert View Water Agency v Verjil, 120 Cal. App. 4th 890 (2006), California Supreme Court S127535 (July 24, 2006).
5. Summary of Utility Services Costs Relevant to Proposition 218, [Consultant's] Draft Report, May 2008, 44p.
6. Portola Municipal Code 2.04.040 Duties of the Mayor
7. The National League of Cities City Manager Duties <http://nlc.org>
Portola City Municipal Code 2.08.10 Duties of the City Manager
8. Gallina LLP Audit Company Audit report 2010-2011 Clean Audit
9. HDR Engineering report 2011 Water rate study
10. Better business Bureau report HDR Engineering rating of A+
11. State of California Water Board - Treatment Plant
12. Plumas County Flood Control District - Treatment Plant
13. Department of Fish and Game - Poisoning of Lake Davis
14. Portola: The First Fifty Years 1909-1959 by Ray Donnenwirth
15. State Water Project <http://www.water.ca.gov/swp/history.cfm>

APPENDIX A

Proposition 218

More than 30 years ago California voters approved Proposition 13, which imposed severe restrictions on local governing bodies' ability to increase property taxes, their most important source of revenue. Subsequently, many cities and counties began to rely on other revenue sources such as assessments, fees related to property, and general purpose taxes on business licenses, hotel occupancy, and utility users. Increases in these revenue sources were not subject to voter approval. Over the next 18 years, opposition to steady increases in these taxes and fees led to voter approval of Proposition 218, which makes it much more difficult for local governments to increase revenue, and forbids the use of property-related fees for general government services.

Proposition 218 shifted powers over taxation and revenue to residents and property owners, and away from local governing bodies. Elected officials found themselves in the difficult position of being responsible for spending, but with extremely limited authority to raise funds. Some local governing boards solved their dilemma by looking the other way. They simply ignored the constraints imposed by Proposition 218. In the years since Proposition 218 was enacted, a number of lawsuits have been brought against local governments for failure to comply with its requirements. Decisions have generally favored the plaintiffs.

APPENDIX B

Enterprise Fund

An enterprise fund establishes a separate accounting and financial reporting mechanism for municipal services for which a fee is charged in exchange for goods or services. Under enterprise accounting, the revenues in expenditures of services are separated into separate funds with its own financial statements, rather than commingled with the revenues and expenses of all other government activities.

Enterprise funds may be established, "for a utility, health care, recreational transportation facility." Examples of which include the following:

- **Public utilities - water, sewer, trash disposal**
- **Health-care - ambulance service, nursing homes**
- **Recreation - skating rinks, pools, golf courses**
- **Transportation – airports, dock and wharf facilities**

The community may not establish enterprise funds for normal government operations or services such as building rentals, inspectional services or cemeteries.

Establishing an enterprise fund does not create a separate or autonomous entity from the municipal government operation. The municipal department operating the enterprise service continues to fulfill financial and managerial reporting requirements like every other department.

Financial transactions are reported using standards similar to private sector accounting. Revenues are recognized when earned and expenses are recognized when incurred, under a full actual basis of accounting.

APPENDIX C

Lake Davis and Water Treatment Plant Chronology

- **December 1963** – Flood Control District enters 75-year contract with the State to purchase water from Lake Davis (to 2038).
- **1968** – U.S. Economic Development Administration provides \$426,000 for a water treatment plant.
- **1968** – Flood Control District and State of California enter into contract to build Grizzly Valley Pipeline from Lake Davis to the City of Portola.
- **1969** – Flood Control District and City of Portola enter long-term contract for municipal water supply – Portola contracts for 25% of Lake Davis water supply and 25% of cost of facilities.
- **1979** – Portola increases its stake in the water supply and facilities to 28.7%.
- **1997** – Department of Fish & Game attempts first pike eradication – use of water treatment plant suspended.
- **May 2000** – City of Portola conducts a town hall meeting to inform the public that the City is considering going back on the Lake Davis water supply. County estimate is \$800,000 to repair and upgrade water treatment plant. The City estimates the cost will exceed \$1 million.
- **July 2000** – The City urges the County to pursue funding to upgrade or replace the water treatment plant.
- **2001** – The California Department of Health Services determines the existing water treatment plant is beyond repair.
- **July 2002** – Portola Water System Master Plan identifies need for additional water supplies. The City requests an option to purchase additional water from Lake Davis.
- **May 2003** – The City asks the County to fund and construct a new water treatment plant. One reason cited is the 2006 arsenic standard which will inhibit Portola's future use of well water. The City asks for assurance that it will not be required to make any contribution to the construction cost. The City says the "need to go back to Lake Davis as a main source of water supply continues to escalate."
- **July 2003** – State Revolving Fund accepts application for \$2.4 million loan for WTP construction.
- **August 2003** – Negotiations continue with the Board of Supervisors without any conclusion. Efforts are focused on securing outside funding.
- **August 2004** – Efforts to obtain federal funding in the 2005 fiscal year are unsuccessful.
- **September 2004** – The City emphasizes it is imperative that Portola begin receiving Lake Davis water in 2005 because Portola's economic future and well-being are dependent on the City's long term reliance on Lake Davis as its main water supply. The Flood Control District continues preliminary design work and environmental review while pursuing funding for construction. Disagreement continues over interpretation of the Plumas-Portola contract and financial responsibility for constructing a new water treatment plant.

- **October 2004** – The City offers to contribute \$100,000 to the construction of a new water treatment plant.
- **January 2005** – Project cost for a new water treatment plant is estimated at \$3.7 million.
- **May 2005** – Portola emphasizes that it is imperative that it begin receiving Lake Davis water.
- **June 2005** – The Flood Control District has assembled \$1.1 million toward the project and proposes to continue to pursue federal funding or for Portola and GLRID to accept a \$2.6 million zero-interest loan from the State Revolving Fund. The City expresses a willingness to contribute to the construction cost if it can obtain ultimate ownership of the water treatment plant.
- **July 2005** – Portola offers to contribute \$1 million to the construction cost.
- **August 2005** - \$1 million grant from the State Revolving Fund becomes part of the financing. Portola reiterates that it is willing to become the owner /operator after construction.
- **November 2005** – Congress appropriates \$2.5 million to the Army Corps of Engineers to construct new water treatment plant.
- **January 2006** – The City recognizes that Federal funding and project coordination with the Army Corps of Engineers will create significant delays in the construction schedule.
- **September 2006** – Project Coordination Agreement finalized with Army Corps of Engineers.
- **April 2007** – Flood Control District and City enter settlement agreement regarding financing and construction of water treatment plant. The total project cost with Corps of Engineers is \$5 million.
- **August 2007** - Lowest construction bid exceeds engineer's estimate by more than \$1 million.
- **November 2007** – Flood Control District and City amend settlement agreement to meet new project budget of \$6.3 million.
- **June 2008** – Demolition of old water treatment plant begins.
- **November 2009** – Flood Control District and City enter agreement for City to operate and maintain the water treatment plant until transfer of ownership.
- **December 2009** – Army Corps of Engineers accepts beneficial occupancy of project.
- **January 2010** – Freeze damage discovered in external facilities. Army Corps of Engineers begins work on change order for repairs.
- **October 2010** – Punch-list walk-through still shows finish work to be done.
- **March 2011** – Flood Control District and City execute addendum to 2007 settlement agreement to add work to refurbish water tank and extend the deadline for the Flood Control District to repay \$165,000 loan until December 31, 2015.
- **June 2011** – The City begins work to refurbish finished water storage tank.
- **September 2011** – Project engineer certifies the project is complete and requests final inspection by Department of Public Health.
- **October 2011** – Department of Public Health completes final inspection.

APPENDIX D

Portola Water Utility Chronology

- **February 14, 1955** City purchases water system from Portola Water Company, Inc.
- **1955 to 1975** City's water delivered to City via pipeline from spring vault at Golden Springs.
- **1956** City establishes additional water resource through a series of springs and pipes the spring water to a pond and treatment & delivery facility off Lake Davis Road to the North of C. Roy Carmichael School. School did not exist at this time.
- **1964** State of California establishes a series of dams through State Bonds known as the *State Water Project*. One of the bonded Projects included the construction of a dam creating a man-made water storage lake along Grizzly Creek. The lake was named after then Portola Congressman, Pauline Davis.
- **1968** City of Portola officials enter into a contract with Plumas County Flood Control District (who purchases State Water Project water) to purchase and deliver water based on the purchase of 62 acre feet and annually increasing allotment of water to 675 acre feet in 2016 to the City via the newly constructed Lake Davis Water Treatment Plant (County owned) and Lake Davis 3-miles 14-inch pipeline, 2-miles 12-inch pipe, and 2-miles of 10-inch pipe (State DWR owned) to a series of valves located on the North side of Joy Street at intersection with Gulling Street.
- **1970** City receives its first deliveries of water from Lake Davis.
- **1975** North side million gallon storage tanks constructed. 1978 2 storage tanks (1-500,000 gallon and 1-250,000 gallon) constructed on South side of City above Portola High School.
- **1968 to 1997** City Council establishes a policy of using Willow Springs water until usage demand exceeds spring's capacity and then uses treated Lake Davis water in spring, summer and fall (usually April through October).
- **1994** Northern Pike a predatory fish were discovered in Lake Davis. California DFG determines that this species, if allowed to escape Lake Davis, is a threat to the Bay Area Delta Waterways and salmon and steelhead populations, with temporary water resources and no redundancy.
- **1996** City officials apply for low interest loan from USDA Rural Development for construction improvements to City water infrastructure. USDA requirements are that as a condition of the \$1.173 million loan that the City installs water meters for all utility customers. Prior to water meter installation residents were permitted to use unlimited quantities of water for a single set price. Installation of water meters caused increased conservation and permitted the City to survive the Lake Davis Water Treatment Plant crisis.
- **1996** as a mitigation to the proposed Northern Pike Eradication Project CA DFG funds the construction and development of a potable water well at the City Corporation Yard as a temporary drinking water supply for Portola residents.

- **September 1997** DFG, CA DHS and CA DWR order the pipeline from Lake Davis to the Lake Davis Water Treatment Plant severed until DHS re-certifies Lake Davis water as safe to consume. Expected to be two to three months as described in the Project EIR. Plumas County abandons the Water Treatment Plant without winterizing, decommissioning process later to be reported by a DHS report as being left in “*deplorable*” condition.
- **October 1997** City of Portola reconfigures City water rates based on actual usage as supported by water meter readings.
- **October 15, 1997** Lake Davis is treated with chemical, Nustn-Noxfish, to eradicate Northern Pike from the Lake’s waters. Nustn-Noxfish is a chemical formula of Rotenone with several Proposition 65 prohibited chemical dispersants reported by the EPA as carcinogenic.
- **January 1998** Lake Davis still remains uncertified by CA DHS as a potable water supply. City is worried about entering the summer months and our ability to meet peak day demands with current temporary water system. City Council directs City Manager and City Attorney to file legal action against the State of California.
- **February 4, 1998** Portola City Council retains Law Firm of Ellison & Schneider to represent Portola in matters involving DFG and Portola’s Water Utility. Attorney Barbara Brenner becomes lead attorney and hires Engineering Firm Luhdorff and Scalmanini to conduct a comprehensive study with regard to water resources available to City.
- **April 11, 1998** City of Portola files legal claim for damages against State of California and DFG.
- **May 13, 1998** Portola City Council votes to dispense with bidding and hires well driller to construct a new City well and the corner of Commercial and Gulling. At the finish of the Project it is determined that the arsenic level in the well, like the Corporation Yard well, exceeds the new Federal EPA arsenic standard.
- **August 26, 1998** a Settlement Agreement is reached and approved by the Portola City Council.
- **May 1999** California DFG reported to the Lake Davis Steering Committee that the species Northern Pike have been re-discovered in the waters of Lake Davis. This announcement led to concerns about the future use of Lake Davis as a potable water supply.
- **September 18, 1999** City and County settle potential law suit with the State of California. Special Legislation is passed by the State Legislature providing the funds described in the settlement agreement. \$2.8 million City of Portola; \$2.2 million Plumas County; \$4 million in a special fund to settle private and business claims against the State; \$250,000 Plumas County Director of Public Works Director’s estimate to re-model and bring Lake Davis Water Treatment Plant up to new Safe Drinking Water Act standards.
- **May 24, 2000** Portola City Council directs staff to prepare a survey and mail to each Water Utility customer asking about their willingness to return to Lake Davis Water as the primary source for the City.

- **June 14, 2000** City Council holds a public meeting in the All Purpose Room at C Roy Carmichael School to discuss with the public the City's return to Lake Davis as our primary water supply. PhD. Doctor David Spath, Director of the Drinking Water Division California State Department of Health Services is asked by a participant for his professional and personal opinion about the possibility of remaining chemicals in Lake Davis Water or in the sediment at the bottom and shorelines of the Lake states; "I think Lake Davis is one of the most tested bodies of water in the United States and I would certainly drink it rather than water with legal levels of arsenic."
- **January 22, 2001** The EPA adopted a new standard for arsenic in drinking water at 10 parts per billion (ppb), replacing the old standard of 50 ppb set by the EPA in 1975. The new standard became effective on February 22, 2002. The date by which systems must comply with the new 10 ppb standard was January 23, 2006. Portola's city wells were reporting 23 ppb and 26 ppb. City begins notification to utility customers and orders Sauers Engineering to research the cost of Arsenic Well Head Treatment.
- **December 2001** Plumas County retained Engineer, Sig Hansen, submits preliminary Water Treatment Plant design for State Revolving Loan/Grant Fund application through Department of Water Resources. State won't commit as to whether we are eligible for loan or grant. State RLF eventually grants City/County \$1 million for Project.
- **February 13, 2002** Portola City Council directs City Staff to prepare and send a letter to Plumas County informing them of the City's intent to purchase Lake Davis Water and to begin using Lake Davis Water Treatment Plant water in April 2002.
- **February - December 2002** City staff works with County Supervisor. BJ Pearson to determine funding and to finalize special Federal Funding (identified during Supervisor Bill Powers' term) sponsored by Congressman Tom Doolittle (\$2 Million).
- **March 2002** Sig Hansen submits LD WTP design specification to Plumas County and City.
- **April 9, 2003** City and County formally enact the agreement to work together on the Lake Davis Water Treatment Plan – City Council Resolution 1765.
- **January 25, 2006** Portola City Council frustrated by the lack of progress with Plumas County regarding the Lake Davis Water Treatment Plant directs City staff to prepare a letter to the Plumas County Board of Supervisors encapsulating the City's desire and need to receive Lake Davis water and instructing the staff to send it every week until the County displays more activity in attempting to resolve their responsibility for the Lake Davis Treatment Plan.
- **May 10, 2006** City hires well drilling contractor to drill another temporary well at 6th and Pacific using water mitigation funds provided by the State of California DFG as part of the proposed 2007 Northern Pike Eradication Project EIR. This location was identified as one of the seven test wells drilled throughout the City attempting to locate and identify additional water resources.

- **August 17, 2006** City and County officials met with the Army Corps of Engineers regarding their Project Management Responsibilities for the construction of the Lake Davis Water Treatment Plant. At this meeting we learned that the “lions share” of the Federal Money awarded would be paid to the ACE’s for their work.
- **February 28, 2007** the City of Portola and Plumas County began negotiating a Settlement Agreement regarding each agency’s share in the cost of the Lake Davis Water Treatment Plant re-construction and further agreed that ownership of the WTP would convert to the City of Portola once the Project was completed and the City determined that all systems were operational.
- **June 13, 2007** the Portola City Council approved loans to Plumas County to be used for the LD WTP in the amount of \$765,000.
- **December 12, 2007** the above negotiated Settlement Agreement was finalized by Plumas County and the City of Portola.
- **October 28, 2008** the City of Portola and Plumas County entered into an Operations and Maintenance Agreement permitting the City to be the primary operators of the LD WTP.
- **October 2009** LD WTP was declared substantially complete. City and County agree that final punch list work is not complete and instruct the Army Corps of Engineers to re-mobilize the Contractor to complete the additional work identified as inadequate.
- **December 2009** hard winter freeze damages portions of LD WTP and City and County notify ACE’s of inadequate winterization for our High Sierra environment.
- **April 7, 2010** Grizzly Lake Resort Improvement District sends City a certified letter informing the City that it does not intend to use or participate as a user of the LD WTP.
- **August 25, 2010** City of Portola contracts with HDR Engineering, Shawn Koorn, Associate Vice President, to complete a Rate Study Analysis as required and described by State law.
- **October 2010** LD WTP Contractors re-mobilize to complete “punch list.”
- **February 2011** LD WTP Contractors work is pending final approval by Army Corps of Engineers.
- Water revenues increased 11.6% over this time period while expenses increased 22.9%. Testing costs increased 189%. While the testing dollar amount is not large it is indicative of what the City has to deal with.
- The City’s antiquated water storage system had never been the subject of scheduled maintenance since construction of the facilities in the 1970’s and this resulted in \$313,000 in repairs to both water storage tanks in 2009.

GLOSSARY OF TERMS

- **DFG** – Department of Fish and Game
The Department of Fish and Game maintains native fish, wildlife, plant species and natural communities for their intrinsic and ecological value and their benefits to people. This includes habitat protection and maintenance in a sufficient amount and quality to ensure the survival of all species and natural communities. The department is also responsible for the diversified use of fish and wildlife including recreational, commercial, scientific and educational uses.
- **USACOE** – United States Army Core of Engineers
The United States Army Corps of Engineers (USACE, also sometimes shortened to CoE) is a federal agency and a major Army command made up of some 38,000 civilian and military personnel,[3] making it the world's largest public engineering, design and construction management agency. Although generally associated with dams, canals and flood protection in the United States, USACE is involved in a wide range of public works support to the nation and the Department of Defense throughout the world. The Corps of Engineers provides outdoor recreation opportunities to the public, and provides 24% of U.S. hydropower capacity. The Corps' mission is to provide vital public engineering services in peace and war to strengthen the nation's security, energize the economy, and reduce risks from disasters.
- **USFS** – United States Forest Service
The United States Forest Service is an agency of the United States Department of Agriculture that administers the nation's 155 national forests and 20 national grasslands, which encompass 193 million acres (780,000 km²). Major divisions of the agency include the National Forest System, State and Private Forestry, and the Research and Development branch.
- **PCPW** – Plumas County Public Works Department
The Public Works Department maintains approximately 680 miles of roadways, including over 500 bridges and drainage structures and more than 5,000 road signs.
- **PCFCWCD** – Plumas County Flood Control and Water Conservation District
The Plumas County Flood Control and Water Conservation District is a special act water district established by the State Legislature and governed by the Plumas County Board of Supervisors. The Flood Control District delivers municipal and irrigation water supplies from the State Water Project and promotes watershed restoration and management in the Upper Feather River region.

GLOSSARY OF TERMS – Continued

- **NONFEASANCE** (non•fea•sance) (*)
Noun Law
The omission of some act that ought to have been performed.
- **MISFEASANCE** (mis•fea•sance) (*)
Noun Law
 1. A wrong, actual or alleged, arising from or consisting of affirmative action.
 2. The wrongful performance of a normally lawful act; the wrongful and injurious exercise of lawful authority.
- **MALFEASANCE** (mal•fea•sance) (*)
Noun Law
The performance by a public official of an act that is legally unjustified, harmful, or contrary to law; wrongdoing (used especially of an act in violation of a public trust).

Example:

A company hires a catering company to provide drinks and food for a retirement party. If the catering company doesn't show up, it's considered nonfeasance. If the catering company shows up but only provides drinks and not the food, it's considered misfeasance. If the catering company accepts a bribe, that's considered malfeasance.

(*) NONFEASANCE - MISFEASANCE - MALFEASANCE
<http://dictionary.reference.com/browse/nonfeasance>

Grand Jury Report Distribution List

The Honorable Judge Janet Hilde
The Honorable Judge Ira Kaufman
Plumas County Grand Jury 2011-2012
Plumas County Grand Jury 2012-2013
Plumas County Administrative Officer
Plumas County Auditor/Controller
Plumas County Board of Supervisors
Plumas County Building Department
Plumas County Clerk
Plumas County Community Development Commission
Plumas County Counsel
Plumas County Court Executive Officer
Plumas County Department of Animal Services
Plumas County Environmental Health
Plumas County Department of Public Works
Plumas County District Attorney
Plumas County Facilities Services Department
Plumas County Information and Technology Department (Website)
Plumas County Jail
Plumas County Libraries
Plumas County Office of Emergency Services
Plumas County Planning Department
Plumas County Public Health Agency
Plumas County Sheriff
Plumas County Superintendent of Schools
Plumas County Board of Realtors
Plumas Corporation
California Attorney General's Office
California Department of Forestry and Fire Protection-Lassen, Modoc, Plumas District (2)
California Grand Jurors Association
California State Archivist
California Fire Marshal
Airport Manager – Gansner Field (Quincy)
Airport Manager – Nervino Airport (Beckwourth)
Airport Manager – Roger Field (Chester)
Chamber of Commerce: Chester
Chamber of Commerce: Greenville
Chamber of Commerce: Eastern Plumas
Chamber of Commerce: Quincy
City of Portola
Local Agency Formation Commission (LAFCo)
All Special Districts (55)
Lassen National Forest
Plumas National Forest
Smith & Newell CPA's
U.S. Senator Barbara Boxer
U.S. Senator Dianne Feinstein
U.S. Congressman Tom McClintock
State Assemblyman Dan Logue
State Senator Ted Gaines
Auditors

