

BOARD OF SUPERVISORS

TERRY SWOFFORD, DISTRICT 1
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October 16, 2012

The Honorable Janet A. Hilde
Presiding Judge
Superior Court of California, County of Plumas County
520 Main Street, Room 104
Quincy, CA 95971

Re: **RESPONSE TO 2011-2012 PLUMAS COUNTY GRAND JURY REPORT**

Dear Judge Hilde:

Please find the Plumas County Board of Supervisors response and comments to the 2011-2012 Plumas County Grand Jury final report.

FINDINGS AND RECOMMENDATIONS:

Plumas County's Financial Situation:

Finding 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."*

Response: The members of the Plumas County Board of Supervisors agree with this finding.

Finding 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."*

Response: The members of the Plumas County Board of Supervisors agree with this finding with respect to Fiscal Year 2011-2012.

Finding 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."*

Response: The Grand Jury has not provided information as to data used, or the manner in which the figure of \$479,000 was calculated, except to note that the source of the information was the Plumas County Auditor. The former Plumas County Auditor resigned a couple of months prior to the publication of the Grand Jury's Report, and inquiries with the current employees of the Auditors Office have been unsuccessful in replicating the calculations. It should also be noted that there is not a specific account by the name "Main General Operations Fund." It is

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also uncertain whether or not the Grand Jury considered the effect of unspent fund balance at the end of each fiscal year. Accordingly, the members of the Plumas County Board of Supervisors are unable to agree or disagree with this finding. However, the Board of Supervisors does acknowledge that a combination of unspent fund balance, reserves, one-time receipts and other events, were used as short-term “fixes” to close revenue short-falls in the previous six fiscal years in the expectation that the economic downturn was temporary. Since the economic downturn has proven to not be temporary and the assessed values of real property (the basis of the County’s largest source of General Fund revenue) have continued to decline, the adopted Plumas County Budget for Fiscal Year 2012-2013 does not rely on one-time receipts or other events and does not take funds from the County’s reserve. As stated in the response to Recommendation R1, below, the Board of Supervisors cut over \$3 million from General Fund budget requests in the Fiscal Year 2012-2013 budget and balanced the budget without further reducing reserves. The final adopted Plumas County Budget for Fiscal Year 2012-2013 contains 361.743 full-time equivalent (FTE) positions (jobs), down from 367.830 FTE positions the prior fiscal year. The County has eliminated approximately 117.087 FTE positions from a high 471 FTE positions (nearly 25% of the County government workforce).

Finding 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.”*

Response: The members of the Plumas County Board of Supervisors disagree in part with this finding. Plumas County has funded retiree health benefits on a year-by-year basis by appropriating an amount to pay each fiscal year’s expense for retiree health benefits. However, Plumas County has not yet pre-funded future years’ estimated retiree health benefits as that liability has been estimated pursuant to GASB 43 and 45. The County has negotiated and adopted changes that provide that all employees, with the current exception of those in the Sheriff’s Department, pay all future increases in their health insurance premiums, thereby reducing, in part, the potential growth of the County’s liability for current and future retirees’ health insurance. While falling revenue to the County’s General Fund hampers the ability to use General Fund revenue to pre-fund the actuarial liability for retiree health insurance costs, the County will pursue funding such liability for non-General Fund funded employees from the non-General Fund sources that pay for those employees.

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Finding 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."*

Response: The members of the Plumas County Board of Supervisors disagree with this finding and the implication that it applies to the entire Board of Supervisors. The Board of Supervisors acts by way of a majority vote of its members; an individual member cannot act by himself or herself alone.

Finding F6: *The Board as a whole seems to be oblivious to what is really going on in the departments under its supervision.*

Response: Since this is a statement of opinion, rather than fact, the Plumas County Board of Supervisors disagrees with this “finding.”

The Grand Jury contradicts itself by accusing **the** Board of Supervisors of not supervising County department heads, and then saying the department heads should not speak to members of the Board of Supervisors, but only a “**STRONG CAO**”. Board members often attend Management Council meetings and meet individually with department heads. Department heads report to the Board **of** Supervisors on various issues on a regular basis. Open communication between government workers and the members of the Board of Supervisors is encouraged to keep transparency in government.

Finding F7: *There is no policy that addresses evaluations, supervision, or discipline of department heads being applied at this time.*

Response: The Plumas County Board of Supervisors disagrees with this finding. Plumas County Personnel Rule 6, subsections 6.05 and 6.06, refer to merit increase and longevity steps. With any increase due to merit or longevity step an evaluation must be provided to the Human Resources department. It has been the County’s practice to interpret this to include *any employee*, including department heads. (The only exception is elected officials where the voters determine their performance by re-election or by recall.) Personnel Rule 15 governs employee performance evaluations. It provides at subsection 15.01 that the appointing authority will complete a performance evaluation each year. In the case of an appointed department head, the Board of Supervisors is the appointing authority. As with other employees, this rule or policy was interpreted to require an annual evaluation of appointed department heads. However, in practice not every appointed department is evaluated every year, since not every appointed department head is entitled to a step, merit, or longevity increase every year.

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Finding 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.

Response: The Plumas County Board of Supervisors disagrees with this finding. The Board of Supervisors has no knowledge of any facts that would support the statement, “. . . yet have been receiving merit increases because a supervisor heard that they were doing a good job.” As indicated in the response to Finding F7: Plumas County Personnel Rule 6, subsections 6.05 and 6.06, refer to merit increase and longevity steps. With any increase due to merit or longevity step an evaluation must be provided to the HR department. It has been the County’s practice to interpret this to include *any employee*, including department heads. (The only exception is elected officials where the voters determine their performance by re-election or by recall.) Personnel Rule 15 governs employee performance evaluations. It provides at subsection 15.01 that the appointing authority will complete a performance evaluation each year. In the case of an appointed department head, the Board of Supervisors is the appointing authority. As with other employees, this rule or policy was interpreted to require an annual evaluation of appointed department heads. However, in practice not every appointed department is evaluated every year, since not every appointed department head is entitled to a step, merit, or longevity increase every year.

Recommendation R1. The County must make additional cuts in expenses and services to balance its budget.”

Response: This recommendation has been implemented in the Fiscal Year 2012-2013 Plumas County Budget. The Board of Supervisors cut over \$3 million from General Fund budget requests in the Fiscal Year 2012-2013 budget and balanced the budget without further reducing reserves. The final adopted Plumas County Budget for Fiscal Year 2012-2013 contains 361.743 full-time equivalent (FTE) positions (jobs), down from 367.830 FTE positions the prior fiscal year. The County has eliminated approximately 117.087 FTE positions from a high 471 FTE positions (nearly 25% of the County government workforce).

Recommendation 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.

Response to Recommendation No. R2: This recommendation has been partially implemented. Such changes are, for the most part, subject to collective bargaining requirements. As indicated in the response to Finding F4, during **Fiscal Year 2011-2012** the County negotiated and adopted changes that provide

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that all employees, with the current exception of those in the Sheriff's Department, pay all future increases in their health insurance premiums, thereby reducing, in part, the potential growth of the County's liability for current and future retirees' health insurance. For over a year, the County has proposed to the bargaining group representing the Sheriff's Department employees that employees pay all future increases in their health insurance premiums. The County will continue to pursue, with input from employees, health insurance plans that will save both the County and its employees money in terms of health insurance premiums (such as deductibles v. zero deductible, and 80/20 copay in the place of 90/10 copay). While falling revenue to the County's General Fund hampers the ability to use General Fund revenue to pre-fund the actuarial liability for retiree health insurance costs, the County will pursue funding such liability for non-General Fund funded employees from the non-General Fund sources that pay for those employees.

***Recommendation R3.** The Board of Supervisors must install a STRONG leader in the CAO position; a leader of strong moral charter [sic.] who can stay above and not be swayed by the politics of public office.*

Response to Recommendation No. R3: The recommendation has not been implemented. The adopted budget for Fiscal Year 2012-2013 does not include an appropriation for the position of County Administrative Officer (CAO), nor is there sufficient funding to fill the position in the current fiscal year. The Board of Supervisors will determine whether or not to fill the CAO position when it develops the County budget for Fiscal Year 2013-2014 on or before October 2, 2013. If the position is to be filled, the Board of Supervisors will seek a candidate with the attributes described in this recommendation.

Members of the Board of Supervisors are currently making decisions and county business is being conducted as usual. Plumas County department heads are responsible for their departments and are very capable of running county business. Plumas County has great employees who work hard in their public service. Every previous CAO has come with experience as STRONG leader, but it is a highly difficult and political job. Some public have stated they prefer that the Board of Supervisors do the job of a CAO and save money which is currently happening this fiscal year.

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Recommendation 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.*

Response to Recommendation No. R4: The recommendation has been partially implemented in that there is a "cap" on sick leave with the employees under collective bargaining agreements with Operating Engineers Local No. 3 and Probation Officers units. Any employee hired within those bargaining units after July 1, 2010 have a maximum accrual limit of 500 hours. Extension of such a policy to other employees will be subject to future negotiations with other employee groups. Plumas County's Personnel Rules (at Rule 21.02) presently allow conversion of unused sick leave accumulation to prepaid health insurance premiums depending on the retired employee's years of continuous service. While such a policy discourages absenteeism and abuse of the sick leave benefit, it can increase unfunded County liabilities unless funds are set aside to pay the benefit as it accrues. A "cap" helps to limit the future liability. Any change to the sick leave conversion benefit will be subject to future negotiations with employee groups.

Recommendation 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.*

Response to Recommendation No. R5: This recommendation will not be implemented because it lacks sufficient detail for evaluation and appears to be inconsistent with Recommendation R4 immediately above. Plumas County has a catastrophic illness or injury option for employees to donate their vacation or compensatory time to a fellow employee on extended leave. Generally, the employees are very generous to those that need time however, employees that have been known to take sick leave as soon as they accrue it often do not receive a donation of time. Also, our employees are covered under State Disability Insurance (SDI). Plumas County coordinates benefits with SDI so that employees that have leave on the books can continue to receive their full pay with their SDI payments being credited back to the County and the County continuing their pay by the employee's leave bank. The SDI amount and partial leave used equates to the employee receiving their normal pay. Further, an Extended Sick Leave policy would likely cost the County more money.

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Recommendation R6. The Board of Supervisors should initiate long term Strategic Planning Workshops.

Response to Recommendation No. R6: This recommendation has been partially implemented in that the Board of Supervisors has appointed a committee of two of its members (Supervisors Thrall and Kennedy) to begin a preliminary review of County priorities, goals, and objectives within each County department. Several department heads have already met with the committee. The committee's review will become the basis of "workshop" type meetings of the entire Board of Supervisors within the next year.

Recommendation R7. The Board of Supervisors must take steps to work together as a cohesive and functional unit.

Response to Recommendation No. R7: The members of the Plumas County Board of Supervisors generally agree with this recommendation and note that the great majority of the actions by the Board of Supervisors are by unanimous vote. However, the individual members of the Board of Supervisors are elected from different geographic areas of Plumas County and are also from diverse groups and points of view. As a result, there are occasional differences of opinion among the board members as to the best interests of Plumas County and its residents. Such differences are resolved by a majority vote of the Board.

Board members are elected positions that come together to make policy decisions, they do work as a functional unit per the State Constitution that requires a board of supervisors in counties. As elected officials that represent five districts of population in Plumas County, they have to work together by State Law and make policy and decisions.

Sheriff's Department and Jail Report: 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 the response from the Board of Supervisors is limited to the findings and recommendations regarding the Sheriff's Department and Jail that the Grand Jury specifically requested a response as follows:

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RECOMMENDATIONS

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.

Response: The recommendation will not be implemented because it is an unwarranted intrusion on the authority of the Sheriff who is charged with “. . . the sole and exclusive authority to keep the county jail and the prisoners in it” (Government Code section 26605; see also, Penal Code section 4000). However, the members of the Board of Supervisors, the County Counsel, and other department heads who provide support services to the jail will continue to respond to the Sheriff’s requests to tour or inspect the jail as is appropriate to meet their duties and responsibilities.

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.

Response: As mentioned above, the Sheriff is charged with “. . . the sole and exclusive authority to keep the county jail and the prisoners in it” (Government Code section 26605; see also, Penal Code section 4000). The Board of Supervisors depends upon the Plumas County Sheriff to: 1) make known to the Board the needs of the Plumas County Jail; 2) provide the Board with information and documentation supporting those needs; and 3) provide the Board with proposals for addressing those needs. The Board of Supervisors will, of course, seriously consider the Sheriff’s requests and recommendations with regard to communications in the jail in the light of overall County resources and needs.

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.

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Response: As mentioned above, the Sheriff is charged with “. . . the sole and exclusive authority to keep the county jail and the prisoners in it . . .” (Government Code section 26605; see also, Penal Code section 4000). While the Board of Supervisors generally agrees with this recommendation, and views it as a matter of ongoing implementation, the Board of Supervisors depends upon the Plumas County Sheriff to: 1) make known to the Board the needs of the Plumas County Jail; 2) provide the Board with information and documentation supporting those needs; and 3) provide the Board with proposals for addressing those needs. With regard to jail staffing, the Sheriff has provided a creative solution to increase the number of correctional officers at the jail by three (3) with funding by a combination of SB 678 and AB 443 sources and training with the assistance of the Alliance for Workforce Development. The Board of Supervisors applauds this creativity and readily approved the Sheriff’s budgetary and position allocation requests necessary to implement it in Fiscal Year 2012-2013. The Board of Supervisors will, of course, seriously consider the Sheriff’s requests and recommendations with regard to communications in the jail in the light of overall County resources and needs.

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.

Response: The prefatory statements to this Recommendation oversimplify the relationship between the Board of Supervisors and the Sheriff with regard to the Sheriff’s Department. As mentioned above, the Sheriff is charged with “. . . the sole and exclusive authority to keep the county jail and the prisoners in it . . .” (Government Code section 26605; see also, Penal Code section 4000). Also, Board does not have authority to control operations, investigations, or prosecutions, nor can it control personnel assignments by the Sheriff. However, the Board has exclusive authority concerning the Sheriff’s Department budget and to fix number and compensation of all county employees, including those in the Sheriff’s Department. (California Constitution Article XI, section 1(b), Government Code sections 25303 and 25330.) While the **Board of Supervisors**

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generally agrees with this recommendation as to the need for the Sheriff and the Board to work together on any problems, the Board of Supervisors depends upon the Plumas County Sheriff 1) make known to the Board the needs of the Sheriff's Department; 2) provide the Board with information and documentation supporting those needs; and 3) provide the Board with proposals for addressing those needs. The Board of Supervisors will, of course, consider the Sheriff's requests and recommendations in the light of overall County resources and needs.

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.

Response: The Plumas County Board of Supervisors agrees with this Recommendation and it is in the process of being implemented. Full implementation is expected within the next 60 days. As mentioned above, the Sheriff is charged with "... the sole and exclusive authority to keep the county jail and the prisoners in it . . ." (Government Code section 26605; see also, Penal Code section 4000). The Board of Supervisors depends upon the Plumas County Sheriff to: 1) make known to the Board the needs of the Plumas County Jail; 2) provide the Board with information and documentation supporting those needs; and 3) provide the Board with proposals for addressing those needs. With regard to jail staffing, the Sheriff has provided a creative solution to increase the number of correctional officers at the jail by three (3) with funding by a combination of SB 678 and AB 443 sources and training with the assistance of the Alliance for Workforce Development. The Board of Supervisors applauds this creativity and readily approved the Sheriff's budgetary and position allocation requests necessary to implement it in Fiscal Year 2012-2013.

Respectfully submitted,

PLUMAS COUNTY BOARD OF SUPERVISORS
By 
Robert Meacher, Chair

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Cc: Plumas County Clerk
2012-2013 Plumas County Grand Jury