

# SIERRA COUNTY GRAND JURY 2006-2007



FIRST OUT – THEN IN

# **Final Report**

July 31, 2007

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

Mike Harris and Bud Carpenter

In the Ralph M. Brown Act, 1953

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Sierra County Grand Jury Report 2006-2007

The Honorable William Pangman

Presiding Judge

Sierra County Superior Court

Dear Judge Pangman,

It is with honor and duty that we present to you the 2006-2007 Sierra County Grand Jury Final Report for your consideration.

After a comprehensive review of many aspects of Sierra County government we found that, in the main, county business is conducted transparently and professionally. There is excellent work being done by very good people in the best interests of the citizenry of Sierra County. We recognize with honor the employees and the volunteers who work for Sierra County.

We witnessed the political succession of three Department Heads through the electoral process. We had the unique opportunity to interview both the current and future Department Head in the Sheriff's Office, the Clerk-Recorder's Office and the Assessor's Office. We were impressed with the smoothness of the transition of power.

We would like to thank all the Department Heads who came and made presentations about their departments and gave us valuable insights into the operation of County government. We sincerely thank the staff of the Superior Court and, most importantly, we wish to thank Jan Hamilton who was always available to provide assistance to our various questions and requests. We want to thank Jim Curtis, County Counsel, and Larry Allen, District Attorney, for serving as our advisors and helping us deal with aspects of our report. We wish to thank you, Judge Pangman, for allowing us to pursue the truth without reservations and challenging us to think critically about the issues presented to us. Finally, we want to commend the citizens who value our County enough to submit complaints to the Grand Jury and bring important issues to our attention. You are the heroes of democracy and we could not have written this report without you.

Power to the people.

Sincerely,

The 2006-2007 Sierra County Grand Jury

## **Judge's Charge to the Jury**

I shall now draw your attention to a function of the Grand Jury which is separate from, but analogous to, the conduct of inquiries into public offenses and the return of indictments therefor. The law makes it your duty to inquire into willful or corrupt misconduct in office of public officers of every description within the County. The same procedure should be followed for investigation such a charge as in an ordinary criminal case, and the same rules of evidence should be applied by the Grand Jury in their investigation and deliberations.

If willful or corrupt misconduct is shown by the evidence, the Grand Jury should return an accusation in writing against the offending officer, who may be any officer of a district, county, or city, including any member of the governing board of a school district. As with an information, such an accusation may not be presented without the concurrence of a least eight Grand Jurors, who have each been present during the presentation of all evidence relating thereto. It must state the offense charged in ordinary and concise language, and is to be delivered by the foreperson to the District Attorney, who will conduct the further proceedings thereon. The main purpose of an accusation is to remove the accused person from public office. Therefore, the misconduct charged in an accusation need not necessarily include an act which would itself constitute a crime.

From the "First Category- Second Part: Inquiries into Misconduct in Office"

I shall now address the second, but most common, part of your duties – that (of) "civil watchdog."

## 2006-2007 Grand Jury

Greg Bulanti	Downieville
Carl Butz	Downieville
Anne Eldred**	Sierraville
Donald Epperson	Downieville
Kathy Freschi	Calpine
Carol Iman*	Sierraville
Mary Johnsen***	Downieville
Lynn McKechnie***	Sierraville
Norman Mosley	Verdi
Karla Pombo	Sierraville
Kenneth Sposito	Calpine
Norman White	Downieville

- \*Resigned before end of term
- \*\*Appointed to fill vacancy
- \*\*\*Holdover from 2005-2006



## Board of Supervisors

The Grand Jury, as a group, interviewed the members of the Sierra County Board of Supervisors, with the exception of Pat Whitley. Individual responses to the previous Grand Jury Report were received and reviewed by the group, again, with the exception of Supervisor Whitley. Board meetings were attended by Grand Jury members in both, Downieville and Loyalton. The Supervisors have good attendance records and are generally prepared to deal with the items on the agenda.

In addition to each supervisor serving on local committees, some are also participants of the California State Association of Counties (CSAC), Regional Council of Rural Counties (RCRC) and Northern Sierra Air Quality Management District. These rural county lobbying groups allow for a networking system with the benefit of sharing ideas and costs for dealing with common issues that are unique to rural counties.

## Findings #1:- Report Response

A majority of the Board of Supervisors did not respond to the 2005-2006 Grand Jury report in a timely manner.

## Recommendations for Findings #1

The law requires a response within ninety (90) days of the report being issued. It can be done as a group, or by each member individually. Compliance is recommended.

## RECOMMENDED READING-

**1998-99**

### **GRAND JURY REPORT- BOARD OF SUPERVISORS FINDING SUMMARY**

1. SUPERVISORS WHITLEY AND MITCHELL APPEAR TO BE OPERATING AS A POLITICAL SLATE, WHICH LEADS TO VIOLATIONS OF THE RALPH M. BROWN ACT, OR "BROWN ACT."
3. SUPERVISORS WHITLEY AND MITCHELL APPEAR TO BE IN VIOLATION OF RULES RESTRICTING EX PARTÉ COMMUNICATION (FROM ONE SIDE ONLY) WITH LAND DEVELOPERS.
4. SUPERVISORS WHITLEY AND MITCHELL ARE IN VIOLATION OF THEIR BOARD OF SUPERVISORS' OWN RULES OF CONDUCT.

### Findings #2- General Plan Expiration

The current Sierra County General Plan will expire in 2012.

### Recommendations for Findings #2

Work on the new plan should begin soon, as the revision process to update the plan will take considerable time.

### Findings #3- Personnel

Mismanagement of personnel issues has resulted in costly lawsuits against the County.

### Recommendations for Findings #3

The Board of Supervisors should develop a way to deal with personnel issues to insure that the personnel policy is being followed and updated or amended as necessary. A County Human Resources officer is recommended.

### Findings #4- Management

Performance of individual departments could be enhanced through better management practices by the Board of Supervisors.

### Recommendations for Findings #4

The government committee should meet with department heads to set goals, mutually agreed upon. As a follow-up, progress reports should be done on a quarterly basis to monitor progress.

#### 1998-1999 Grand Jury Report

The Board should review as a whole their own rules of conduct and limit their actions to setting and reviewing policy. They should not be telling any other body in the county how it should run its everyday operations. The Grand Jury has been greatly impressed with the tremendous talent and high intelligence of the many professionals who supervise the daily operations of this county as well as their supportive staff.

#### 1998-1999 Grand Jury Report

All Supervisors should make an attempt to consider the spirit of the Open Meeting Act or Brown Act by forestalling any conclusions until after they have engaged fully with the public in their open meetings. This means that they will have to ask questions of the participants and express views which reflect something of what has been discussed collectively.

### Findings #5- Conduct of Meetings

The Board of Supervisor meetings are not always conducted in an orderly fashion. Abusive comments and personal attacks have been directed towards county staff by certain Board members.

### Recommendations for Findings #5

The Supervisors should always conduct themselves in a professional manner. The Amended and Restated Board of Supervisors Rules for the County of Sierra, Resolution 97-

043 that has been adopted, should be followed to provide for a more expeditious and professional handling of public business.

### **Findings #6- Accusation**

The 2006-2007 Grand Jury received several formal complaints which were investigated. That resulted in an “Accusation of Willful Misconduct” against a Supervisor.

### **Recommendations for Findings #6**

The Supervisors need to recognize potential conflicts of interest in the process of representing their constituents. There are times when a recusal may be in order to avoid the appearance of inappropriate or unfair practices. (See Recommendation #5)

Appendix:

Resolution 97-043

Accusation of Willful Misconduct

1998-1999 Grand Jury Report

County Supervisors should not discuss anything with parties affected by their future rulings.

## **Law Enforcement**

Law enforcement in Sierra County is the purview of the Office of the Sheriff (OS) and a California Highway Patrol (CHP) resident patrolman on the west side of the Yuba Pass and one on the east side of the Pass. The focus of the CHP is motor vehicle law enforcement.

The duties of the Office of the Sheriff include protection of persons and property, keeping the peace (crime protection), and keeping the county jail. The duties also include criminal investigation, oversight on search and rescue, being an officer of the Superior Court, and as coroner conducting investigation of deaths.

At this time the Office of the Sheriff, a 24 hour a day business, employs the sheriff, one sergeant and seven sworn deputies with one deputy on suspension so that his duties are taken up by others. Additionally there are four full time correctional-communications officers working twelve hour shifts and two part time correctional-communications officers. There is also a secretary. In the summer months the deputies also include two boat patrol officers working the Lakes Basin area, Jackson Meadows and Stampede Lake, and one campground patrol officer. These three reserve deputies are seasonal and are funded through grant programs..

The reasons for investigation of the Department were normal scheduling of the Grand Jury, that the Grand Jury is required to inspect the jail annually, and citizen complaints and inquiries.

### **Finding #1- Staffing:**

Historically the Sheriff's department has had eleven sworn officers including the Sheriff and the Undersheriff with two sergeants and seven deputies. At this time there is no Under Sheriff and only one sergeant, but in time with promotions those positions may be filled. There are established standards of qualification for promotion. With the resolution of the matter addressed in Finding #2, the staffing of sworn officers may be properly tackled.

At this time the newly elected sheriff is sorting out staff to handle the work load previously done by experienced officers who have since retired. He is also making the transition from being a sergeant to being an elected department head. People are pitching in no matter their job description to keep the office afloat, but supervision and training are leadership issues that need to be addressed.

The staffing of the correctional-communications officers is of concern with individuals working long overtime hours and with only one individual being on duty much of the time. In times of

emergency, the understaffing is critical and the ability to handle the crisis can be strained past safety standards, both that of the staff and of the prisoner(s).

The training schedule of the correctional-communications officers has left two out of compliance with state regulations.

### **Recommendations for Finding #1**

The Sheriff needs to continue to learn his new job so that the demands become more manageable. He needs to continue to improve his management skills. Intra-department communication and team building is critical as are long range planning and budgeting for the future.

The chain of command structure needs to be properly staffed with existing personnel meeting the qualification and experience standards being better utilized. Training requirements need to be completed on time.

### **Findings #2- Suspended Officer**

The previous sheriff terminated the employment of a deputy. That action for termination with cause has wound its way through the legal system for years in a costly manner often reported in the *Mountain Messenger* and the *Sierra Booster*. The Sierra County Board of Supervisors agreed with the causes determined and presented by the Sheriff but decreed a change in the terms of the punishment. The Office of the Sheriff then sued the Sierra County Board of Supervisors for wrongful actions over matters not in their jurisdiction, but clearly in the jurisdiction of department heads. The Board of Supervisors acquiesced on that suit so it was then sued by Mr. Doyle. The Board also acquiesced on that suit and now the suit filed by Mr. Doyle against the Office remains to be resolved. If it is resolved in the favor of the Office of the Sheriff, the termination is final. If the suit is resolved in the favor of Mr. Doyle, he may opt to return to the Office in November as an officer on probation status. The workload normally performed by the suspended officer has been borne by the other deputies since that employment slot is officially filled.

### **Recommendations for Findings #2**

This issue should be resolved at the earliest possible time so that the normal rhythm and level of the patrol element of the Office may be reestablished and the negative morale issues finally be addressed.

### **Findings # 3- Vehicles-**

The vehicle requirement includes a patrol car for each sworn officer, two pool cars, a corrections car, and two vehicles capable of towing patrol boats. An agreement exists between the Office of the Sheriff and the Board of Supervisors that cars are retired at 100,000 miles. Therefore the department needs four cars now to phase out vehicles such as those with manufacturing dates of 1991, 1995 and 1996 with over 100,000 miles. This measure is to provide reliable vehicles that are not constantly being repaired. The newest vehicle is a 2006 model. The average cost per new vehicle is \$35,000.

### **Recommendations for Findings #3**

A schedule and agreement to keep the vehicles current not only needs to be in place but needs to be honored. The Board of Supervisors should review the disposition and/or retention of funds and the Sheriff needs to increase his understanding of the allocation of available funds to allow the updating of the vehicles and disposal of costly unreliable vehicles. Vehicle replacement should be a fixed budgetary expense rather than a discretionary item.

### **Findings #4- Funding**

The Office of the Sheriff receives its operating funds from the County general fund and from grants, \$204,000 from Community Oriented Policing Services (COPS), and \$500,000 of unrestricted use funds, all of which are handled by the County Auditor/Finance office. Preparing the annual budget is the responsibility of the sheriff with heavy reliance on previous budgets and financial statements. The Sheriff is now becoming familiar with both the budget and its ramifications. When he took office he believed that there was sufficient money to replace people lost to retirement and for vehicle replacement. He has been derailed by the disposition of general fund monies and his inability to tap into the \$265,000 remaining unrestricted grant money.

### **Recommendations for Findings #4:**

The Board of Supervisors should restudy the budget of the Office of the Sheriff to ensure that sufficient funds are provided to properly staff with 6 full time dispatchers/correctional officers immediately. The actions recommended in #3 are reiterated here.

### **Findings #5- The Jail**

The jail is well kept with the exercise equipment now in good repair. The air quality is not good but that system is tied into that of the entire building and there are complaints about air conditions throughout the building. Correcting the conditions would be building wide rather than in just the jail.

### **Recommendations for Findings #5**

None.

### **Findings #6- Complaint about Prisoner Release Locations**

A complaint was received noting that female prisoners are routinely transported to Nevada City for incarceration and released there without transportation back to Sierra County. It was revealed that any person incarcerated outside Sierra County including females, the unruly, mentally and medically needy prisoners, are not housed in the County jail. There is no provision for the return of any of these categories of released people to the County, nor has there been in recent history.

### **Recommendations for Findings #6-**

The Grand Jury recommends that all individuals taken out of the county by Sheriff's office personnel are returned by the Sheriff's office personnel to the Sierra County jail for release. At the time dispatcher/corrections officer staffing has sufficient female officers, it is also recommended that qualified females be incarcerated in the Sierra County jail.

## **Solid Waste**

### **Introduction**

The information for this report was gathered by reading the Loyalton Landfill Report of Disposal and by interviewing the Director of Public Works, Tim Beals.

Approximately five years ago very small amounts of automotive coolant were found in test wells used to monitor the ground water around the landfill. Thus the life expectancy of the landfill has gone from 30+ years to possibly 5 or 10 years. Currently \$62,000 per year is being set aside to cover the costs of closing the landfill. According to Tim Beals, transport of waste is “the only feasible option.” He stated that lining the current site or acquisition and lining of another site was not “fiscally advantageous”, He estimated the cost of lining the current site at over \$1million.

The fees charged do not cover the costs of running and maintaining the solid waste operation. The short fall is made up by financing from the General Fund. There is a need to address this shortfall, as well as dealing with the introduction of unaccounted for waste into the system and handling of household hazardous waste.

### **Findings #1- Cost of Operations**

The fee structure does not cover the actual cost of handling solid waste.

#### **Recommendations for Findings #1**

Modify the fee structure to more closely reflect the cost of handling the different materials. There should be more vigorous verification that the waste is actually generated by County residents.

### **Findings #2- Amount of Waste**

The actual amount of waste entering the landfill should be minimized.

#### **Recommendations for Findings #2**

Recycling should be maximized by encouraging the residents to recycle as much as possible. Also, the “two cans a week” limit on household garbage should be enforced.

### **Findings #3- Steps**

Steps need to be taken immediately to provide solutions to our solid waste issue.

**Recommendations for Findings #3**

The Sierra County Board of Supervisors should seriously consider lining part of the current landfill property or acquiring different property and lining it. This needs to be done very soon, as it may take 5 to 10 years to implement a solution. The potential liabilities of relying on out of County landfills and transportation cost increases should also be realistically considered before deciding on that option.

## City of Loyalton

### Introduction

The focus of this report will be the operations of the Loyalton City Council. The Jury's investigation began in July of 2006 with the formation of a specific committee to look at the operations of the City. The Grand Jury as a whole interviewed each member of the Loyalton City Council. The Council members agreed that managed growth is necessary for the health of the City. They would like to see more viable businesses within the downtown area. The council members also acknowledged problems with water and sewer systems, and code enforcement in the City. (More background information is available in the current version of and draft of the Loyalton General Plan and the County's Municipal Service Review.) In the process of this investigation, the Grand Jury Committee for the City of Loyalton attended almost all council and General Plan Advisory Committee meetings. The Grand Jury committee requested and received agendas and minutes of meetings held in 2005 and 2006 and notices and minutes for future meetings held until the end of this Grand Jury's term in 2007. The Grand Jury found that the requirements set forth in the Brown Act are not being properly followed. Thus, the rights of the County's citizens are in jeopardy. Because it is the job of the Grand Jury to make sure that the public is fully informed regarding issues like this, the Jury initially decided to issue an interim report on the operations of the Loyalton City Council. However, due to increased citizen involvement, it was determined there was no need to issue the interim report.

### Findings #1-Special Meetings

The Loyalton City Council holds many special meetings. While only nine were held in 2005, fourteen were held in 2006. Unlike regular meetings, special meeting postings have been minimal at best with notification only at City Hall. At least one meeting appeared to have not met the 24 hour notification requirement, i.e., the meeting held on Feb. 14, 2007. These special meetings were held on irregular days, times, and places. This required an interested citizen to check with City Hall on a daily basis to see if a meeting had been scheduled. Because of the lower standard of notification, the frequency, and irregularity of meeting conditions, these types of special meetings negatively impact the public's involvement in the process.

### Recommendations for Finding #1:

The City Council should substantially reduce the number of special meetings. Instead, the Council should schedule and hold two regular meetings per month on set days with regular times. Those meetings should be held at the Social Hall where adequate space for public

involvement is available. All meeting announcements should be posted regularly in several areas very visible to the public.

## **Findings #2- Meeting Content**

At these special meetings significant decisions are being made affecting the citizens of the County. For example, almost all Loyalton General Plan decisions have been made at special meetings. The City's updated General Plan could have huge implications for the City and the County. In contrast, most regular meetings are short, an hour or less, and appear to deal with items that would be subject to little disagreement by any members of the council. However, when controversial items come up at a regular meeting, items which have stimulated controversy among the council members, it has been observed that the decision is apt to be postponed only to be placed on the agenda of a "special meeting". As these items are probably also of greater interest to the public, this placement often results in subsequent decrease of public awareness. This happened most notably with the special meeting called for Jan. 25, 2007, which was held at 4 PM in the office at City Hall. The City Hall office is small with no space for an audience. At this meeting, a major decision on the tasking of the General Plan Advisory Committee was at stake.

### **Recommendations for Findings #2:**

The majority of City Council business should be decided at regular Council meetings, especially all items of controversy.

## **Findings #3- Public Involvement**

Lack of structure during meetings makes it difficult for the public to be involved. There is no use of microphones, and this makes it difficult for the audience to understand what is said. Few agenda items are explained for the benefit of the public. Motions that are approved are not read back for verification of the motion before a vote. The audience is left wondering what was actually approved. There is a very informal atmosphere in which the council members discuss issues among themselves. This has the effect of distancing the Council from its constituents in the audience. It does not demonstrate a concern for the importance of the job of the council since it excludes the audience from parts of the discussion.

### **Recommendations for Findings #3:**

3. The atmosphere of the meetings should be more businesslike. Council members should have name plates prominently displayed in front of them and use microphones at all times. All motions should be read back clearly to the council and audience prior to voting. Side bar discussions should be avoided.

### **Findings #4- Minutes**

The minutes of public meetings do not always reflect what happened during the meeting. Accurate minutes are critical to the open meeting process.

#### **Recommendations for Findings # 4**

There should be an audio recording of all meetings.

### **Findings #5- Discussion**

At regular and special meetings action items have, at critical times, had little if any discussion. There is the appearance that communications on these action items by the Council have taken place outside of the public meeting process. For example, a five page letter dated Feb. 14 was presented at the special meeting on Feb. 14. It was stated that the writing of this letter was directed by the City Council. Immediately upon beginning the meeting, a motion was made to approve the letter. There was no opportunity for discussion before the motion was made. Only after questions and concerns were raised by the audience and after a public reading of the letter, the motion was withdrawn. No evidence has been found of prior direction from the Council at a public meeting to draft such a letter. This letter was intended to represent a position of the Council on a very important matter affecting the City and the County. Additionally, the Feb. 14th meeting was minimally noticed. Not all Council members received the meeting notice 24 hours in advance as required by the Brown Act. A posted announcement stated the meeting was to be held at City Hall. Due to the large public attendance the meeting was moved to the Loyalton Social Hall.

#### **Recommendations for Findings # 5:**

The Loyalton City Council should clearly and openly conduct business as required by the Brown Act (the open meeting law.) All City Council actions and directions should be discussed and approved at public meetings. No public meetings should be held at City Hall due to its size.

### **Findings #6- Committee Appointments**

The Loyalton City Council's formation of the Planning Advisory Committee had no guidelines for notification or application. Various members of the committee were appointed using widely varying standards. Several members of the Committee have significant financial interests related to the outcome of the Committee's work.

#### **Recommendations for Findings #6:**

The Loyalton City Council should create and institute a regular procedure for forming advisory committees. This procedure should include proper notification, appropriate application and a fair selection process.

### **Findings #7- General Plan Process**

Some members of the Loyalton City Council have pushed the need for speed in creating a general plan. Questions have been raised about how this desire to rush the process could severely affect the quality of this important document.

#### **Recommendations for Findings #7:**

The Council should consider the importance of the General Plan document. Adequate time should be taken to insure that full community involvement and thorough investigation and research have been done.

### **Findings #8- Community Involvement in General Plan**

Little effort has been put forth by the Council to elicit widespread community involvement in the process of creating a general plan. A real estate developer, who has a substantial financial stake in the outcome of the General Plan, stated at a Sierra County Board of Supervisors meeting that he was “leading the Loyalton General Plan process”.

#### **Recommendations for Findings #8:**

Maximum community involvement should be actively sought. That involvement may be sought, for example, through the use of mailers, newspaper articles, publicly placed notices and community informational forums. People with significant financial stakes from the outcome of the General Plan process should be considered to have a conflict of interest and be treated accordingly.

### **Findings #9- Influence**

The City of Loyalton contracted with a planner who was unduly influenced by a local real estate developer.

#### **Recommendations for Findings #9**

The City Council needs to choose and monitor contract employees more carefully.

### **Findings #10 - City/County**

There is miscommunication and a feeling of distrust between the City of Loyalton and Sierra County.

#### **Recommendations for Findings #10:**

Communication and trust could be enhanced by holding joint meetings of the Loyalton City Council and the Sierra County Board of Supervisors on a regular basis.

## **Comments**

Improvements in the Council meeting and planning process have been recently observed. Council members have shown increased attention to following proper meeting requirements. The General Plan process began to work more effectively because of greatly increased community involvement, basically spread by word of mouth.

As an update on the General Plan process, the following was observed: the General Plan process began in earnest with a proposal by the Sierra Valley Development Company LLC. The Loyalton City Council formed an advisory committee with a planner in order to update the City's General Plan. Eventually the committee was enlarged to encompass three subcommittees that would research the following: No change in the Land Use Element of the General Plan, small annexation, and large annexation. The committees investigated and created presentations for each annexation proposal. A community meeting was held to view and listen to all three proposals. The citizens of the community overwhelming indicated support for the Small Annexation General Plan option.

See Appendix A "The Brown Act

## **Education**

### **Introduction:**

The Sierra Plumas Joint Unified School District (SPJUSD) and the Sierra County Office of Education (SCOE) have boards of directors made up of the same individuals; however, the officers of those boards are not usually identical. Sierra County schools, along with many California rural schools, are suffering a financial crisis and a steady decline in enrollment. The funding crisis is exacerbated by the projected loss of 15% of the total budget, monies received the last five years from the Secure Rural Schools and Roads. The enrollment decline may be attributed to emigration of parents of school age children coupled with the influx of retirees or second home buyers without school age children. The Grand Jury examined the actions that are being evaluated and undertaken to adjust to this situation.

### **Findings #1: Funding**

The Secure Rural Schools and Roads funding from the federal government has been extended for the current year putting \$950,000 of unrestricted funds into the school budget.

According to the SPJUSD business manager, the district had a reserve of approximately \$1.7 million unrestricted and \$437,000 in a restricted reserve fund on July 1 of the 2006/2007 school year. The District is required to maintain a reserve of \$200,000; however, the reserves basically may be paper reserves, not necessarily cash in the bank, and those reserves will need to be utilized in the coming years.

A Budget Crisis Committee (BCC) was formed to investigate and explore ways to help the schools overcome the funding challenges. This committee has very effectively made recommendations. The District board has acted on some of these recommendations already.

### **Recommendations for Findings #1.**

Dealing with the financial crisis is well underway. This Grand Jury commends the boards, the administration and staff and the teachers for the dedicated effort made to deal with these issues in a thoughtful and farsighted manner. It is increasingly important that effective communication among all involved parties be paramount in the process of funding these downsized schools.

It is the opinion of this grand jury that the committee (BCC) is kept vigorously involved and validated by the adoption of its recommendations whenever feasible.

## **Findings #2- Decreasing Enrollment**

The decreasing enrollment from the changing demographics of the County is adversely affected by those families that either home school or take their children to more conveniently located schools. That trend may increase should there be much more reduction in the number of teachers providing core curriculum subjects.

### **Recommendations for Findings #2:**

Since schools can no longer count on continued growth in enrollment to bring in more money for the districts they serve, ongoing creative ways of dealing with declining enrollment and decreasing funding are required. The qualified, creative teacher utilizing technology in the small school environment can continue to produce well prepared students. Researching and studying successful practices in other rural schools should be done by both teachers and administrators with increased communications between the small schools.

## **Findings #3- Distance Learning**

The District has been exploring distance learning as a method of offering high level instruction despite small class size.

### **Recommendations for Findings #3**

It is recommended that continued efforts along these lines involving the entire educational community should be pursued.

## **Findings #4- Operations**

Increased efficiency of operations and reduction of operating costs is underway with the reduction of school board members from seven to five, representing recently redrawn districts of representation. Two vacated seats will be filled and one seat remains to be vacated to comply with the designated areas. The SCOE and the SPJUSD will pay for one half of the health benefit package, a reduction from c.\$12,000 to \$6,000, received by each board member while each member will continue to receive \$45 per SPJUSD meeting and \$15 per SCOE meeting attended.

Mary Genasci has been appointed Superintendent of the SPJUSD in addition to her duties as the elected Superintendent of the County Office of Education. She stated that this action reduces costs by \$30,000.

### **Recommendations for Findings #4-**

The Grand Jury commends the Board for the actions taken to lower costs while maintaining or increasing efficiency. Further reduction of board member benefits may be necessary if larger deficits loom.

### **Findings #5- Board Member Residency**

A complaint was received by the Grand Jury questioning the residency qualification of a member of the Boards. The basis of the residency complaint could not be substantiated; however, that individual is no longer a board member. Furthermore, investigation shows that the manner of determining residency is not clear or well described in current law or statute.

#### **Recommendations for Findings #5-**

School Board members have the obligation to demonstrate and be a model of honesty for the public they serve. If the residency of any board member in the area he or she serves is in serious doubt, that member should either immediately prove that residency beyond all doubt or resign forthwith.

### **Finding #6- Staffing**

After six years, with the exception of one time only bonus incentives, a pay raise has been approved for teachers and staff. Many of the teachers do not reside in the County and some well qualified teachers are leaving to take better paid positions outside Sierra County. A search is on for a certificated math teacher for the Downieville Schools and the effort is being made to keep up the morale of seriously stretched faculty and staff. (See Appendix B)

#### **Recommendations for Findings #6**

In order to maintain an enthusiastic and capable staff, salaries and benefits must be attractive and competitive. It is feared that the loss of capable employees may result in an increased defection of students. Further staff reductions are inadvisable.

### **Findings #7- Financial Records**

There is a concern that the financial records are not as transparent as they should be with the result that there is confusion as to where and how deficits are being shown. The confusion extends to whether the information is reliable and consistent. Explanations about the current reserves and conditions varied among the persons interviewed.

#### **Recommendations for Findings #7-**

The schools office needs to make sure that all the financial records and budgets are available for review to any concerned citizen. There is the need to be proactive in clearing up misconceptions and to take seriously any claim that misinformation is being used as a bargaining tool.

### **Findings #8- School Attendance Review Board (SARB)**

The SARB committee has not met recently. That committee consists of the District Superintendent, a school principal, the county District Attorney, the county Probation Officer, the Sheriff, the Director of Human Services, or their representatives. The committee looks at absenteeism and determines an approach to be taken with students and their parents to address that absenteeism.

#### **Recommendations for Findings #8-**

The SARB committee needs to meet frequently to ensure that students, their parents, their teachers, the administration and county officials are all on the same page.

### **Findings #9- Educational Standing**

Students in the system are doing well overall. Scores on the high school exit exams are above the State average.

#### **Recommendations for Findings #9**

This Grand Jury commends the schools, administration and boards for their dedication to the education of their students. The Jury recognizes the tremendous progress made in the past several years in organizing and cleaning up a financially devastating legacy.

#### **Comments:**

The prospects for continued improvement and fine educational opportunities are clearly being addressed at this time. It cannot be over emphasized that effective communication, both top down and bottom up, are critical components to the success of this effort. The public needs to get involved and help to insure the success established by the dedication of those mentioned above.

## **APPENDIX**

### **A- The Brown Act**

Government Codes- Government Code Section 54950-54963

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

54950.5            This chapter shall be known as the Ralph M. Brown Act

**B.**        Mountain Messenger Article, "County, Schools Confront the Price of Expertise" VOL. 154, No.3 Thursday, July 12, 2007

**C.**        Accusation of Willful Misconduct Re: Government Code 3060-3075

1 **LAWRENCE R. ALLEN**  
 2 **District Attorney**  
 3 **County of Sierra**  
 4 **Courthouse**  
 5 **PO Box 457**  
 6 **Downieville, CA 95936**  
 7 **(530) 289-3269**  
 8 **Attorneys for Plaintiff**

**ENDORSED:  
 FILED**

**JUN 29 2007**

SIERRA COUNTY SUPERIOR COURT  
 BY Jan Hamilton  
 DEPUTY CLERK

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF SIERRA**

9 **THE PEOPLE OF THE STATE**  
 10 **OF CALIFORNIA,**

11 **Plaintiff,**

12 **vs.**

13 **BROOKS MITCHELL,**

14 **Defendants.**

Case Number: *6767*

**ACCUSATION BY GRAND JURY**  
 (Govt. Code sect. 3060-3075)

**Date: July 25, 2007**  
**Time: 9:00 A.M.**

15  
 16 **To: BROOKS MITCHELL:**

17 **PLEASE TAKEN NOTICE** that on July 25, 2007, at 9:00 A.M., or as soon thereafter as  
 18 this matter may be heard, at the Sierra County Superior Court located at 100 Courthouse Square,  
 19 Downieville, California, defendant, **BROOKS MITCHELL** will be required to appear and answer  
 20 the Accusation presented by the **SIERRA COUNTY GRAND JURY**, which is attached hereto and  
 21 made a part hereof.

22 Defendant may answer the Accusation either by objecting to its sufficiency, or any article  
 23 therein, or by denying the truth of the Accusation. If Defendant chooses to object to the legal  
 24 sufficiency of the Accusation, the objection shall be in writing. The objection need not be in any  
 25 specific form, but it must present intelligibly the grounds of the objection. If defendant denies the  
 26 Accusation, the denial may be oral and without oath. The denial will be entered into the minutes of  
 27 the Court.

28  
*Accusation*

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The Defendant is hereby advised that if he pleads guilty, or refuses to answer the Accusation, the Court shall render judgement of conviction against him. If the Defendant denies the matters charged, the Court shall immediately, or at such time as it appoints, set the matter for trial. Defendant is entitled to have the Accusation tried to a jury, and the Defendant is entitled to such process as is necessary to enforce the attendance of witnesses.

Upon a conviction, and at the time appointed by the court it shall pronounce judgement that defendant be removed from the office he presently holds as a member of the Sierra County Board of Supervisors.

Dated: 27 June 2007

Downieville, CA 95936

**OFFICE OF THE DISTRICT ATTORNEY**

*Lawrence R. Allen*

**LAWRENCE R. ALLEN**  
District Attorney

June 12, 2007

2006-2007 Sierra County Grand Jury Accusation  
Subject of Accusation – Brooks Mitchell

**Accusation:** Supervisor Brooks Mitchell has entered into negotiations representing Sierra County without the express prior approval of the Sierra County Board of Supervisors and has represented the City of Loyalton without legal authorization from the Loyalton City Council.

**Findings:**

Brooks Mitchell, Sierra County Supervisor District 4, has violated County of Sierra Board of Supervisors policy on numerous occasions. (Resolution 97-043, March 4, 1997, item No.5) to wit: No member of the Board of Supervisors shall undertake any representation of the County or the Board of Supervisors in connection with any matter without the approval, in advance, of any such representation by the Board of Supervisors. No Board member shall enter into any negotiations or make any representation on behalf of the Board or the County without approval, in advance, of the Board of Supervisors. Any communication to third parties involving matters under the jurisdiction of the Board of Supervisors by an individual Board member, whether or not on Board stationery, shall either be made with approval of the Board of Supervisors, or shall clearly state (or be stated) that the content is that solely of the Board member in his or her individual capacity, and not that of the Board of Supervisors or the County of Sierra. Such statement shall be substantially as follows:

"The contents of this letter express the view of the undersigned in [my] individual capacity, and for which I am solely responsible, and not necessarily that of the County of Sierra or the Sierra County Board of Supervisors."

1. On February 17, 2007, Brooks Mitchell had a meeting at his home in Loyalton to discuss the Farmland Security Zone (FSZ) contract applications submitted by the Goicoechea, Marsh and Potter families. Present at the meeting were Mr. Mitchell and his wife, Jackie, Dennis and Laurie Marsh, Arnold Potter, Tom Rowson and Dave Goicoechea.

A. Mr. Mitchell stated he was representing the Sierra County. He was not authorized to represent the Board in his discussions with the landowners. (The issue was on the agenda of the Sierra County Board of Supervisors for February 20, 2007, and was held over for a vote on March 6, 2007.)

B. Mr. Mitchell asked the FSZ applicants to withdraw their applications because of procedural violations concerning notification of adjacent property owners. He stated he was concerned about a lawsuit against the County and the landowners from an adjacent property owner.

C. Without appropriate authorization from the City of Loyalton, Mr. Mitchell said if the landowners withdrew the applications he would provide a legal document from the City of Loyalton, ensuring that the city would not attempt to take any portion of the properties by means of eminent domain.

D. Accusations were made by Mr. Mitchell that Tim Beals and the applicants were in collusion and that submitting applications for the FSZ contracts was an effort to thwart the annexation of properties into the city limits of Loyalton.

E. Mr. Mitchell purposefully attempted to deceive the landowners by telling them they could reapply after Loyalton finished the City Plan. However, it would have become difficult to put that property into an FSZ after the annexation had occurred.

F. At the March 6, 2007 Sierra County Board of Supervisors meeting, the contract applications submitted by the three landowners, were presented to the supervisors for approval. Mr. Mitchell participated in the discussion and voted on the issue. The vote was unanimous in favor of approval.

2. On March 20, 2007 an application was submitted to Sierra County Local Agency Formation Commission (LAFCO) to initiate Proceeding for Change of Organization/Reorganization affecting the City of Loyalton.

A. Brooks Mitchell is listed as a Co/Applicant on the application, along with the applicant Sierra Valley Development Co., LLC. In violation of Board policy, Mr. Mitchell did not state that he was acting as an individual or that he had authorization to act on behalf of the Board.

B. Mr. Mitchell made derogatory, inflammatory and false statements about County staff and the Grand Jury in the body of the application.

C. By association to this document, Mr. Mitchell makes a statement that he is connected with the Sierra Valley Development Co, LLC, creating a conflict of interest when these matters come before the Board.

3. Supervisor Mitchell attended Planning Commission meetings on February 15, 2007, March 22, 2007, and April 12, 2007.

A. Mr. Mitchell represents himself as speaking on behalf of the Associated California Loggers Association. He was involved in

discussions and lobbying to influence the outcome of new ordinances affecting Timberland Production Zones and Caretaker Units.

B. These same issues will eventually be voted on by the Sierra County Board of Supervisors, thereby creating a clear violation of ethics.

SIGNED *Greg Buland*  
GREG BULAND  
FOREMAN, 2006-2007 Sierra County  
Grand Jury