



# Superior Court of California County of Colusa

**JEFFREY A. THOMPSON**  
PRESIDING JUDGE

532 Oak Street  
Colusa, CA 95932

**JASON B. GALKIN**  
COURT EXECUTIVE OFFICER  
CLERK OF THE COURT  
JURY COMMISSIONER

**ELIZABETH UFKES OLIVERA**  
ASSISTANT PRESIDING JUDGE

PHONE: 530-458-5149  
FAX: 530-458-2230

## MEMORANDUM

TO: Governmental Officers and Interested Parties

FROM: Colusa County Grand Jury

SUBJECT: Colusa County Grand Jury 2016-2017 Final Report

DATE: July 3, 2017

Enclosed please find a copy of the 2016-2017 Colusa County Grand Jury Final Report.

A copy of California of California Penal Code Section 933 is attached which provides for comments in response to the Report.



## **PENAL CODE - PEN**

### **PART 2. OF CRIMINAL PROCEDURE [681 - 1620] ( Part 2 enacted 1872. )**

#### **TITLE 4. GRAND JURY PROCEEDINGS [888 - 939.91] ( Title 4 repealed and added by Stats. 1959, Ch. 501. )**

#### **CHAPTER 3. Powers and Duties of Grand Jury [914 - 939.91] ( Chapter 3 added by Stats. 1959, Ch. 501. )**

#### **ARTICLE 2. Investigation of County, City, and District Affairs [925 - 933.6] ( Heading of Article 2 amended by Stats. 1973, Ch. 1036. )**

**933.** (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

*(Amended by Stats. 2002, Ch. 784, Sec. 538. Effective January 1, 2003.)*

2016-2017

# COLUSA COUNTY GRAND JURY

ENDORSED

SUPERIOR COURT

FILED

JUN 22 2017

COLUSA COUNTY

FILED

## FINAL REPORT

Cover photo by Michael Garofalo

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# INTRODUCTION

The Fifth Amendment to the United States Constitution and the California Constitution call for Grand Juries. The Grand Jury is part of the judicial branch of government. The Colusa County Grand Jury consists of 19 citizens, and though an arm of the court, acts as an independent body. The Presiding Judge of the Superior Court, the District Attorney, County Counsel, and the State Attorney General act as its advisors.

The Colusa County Grand Jury is a volunteer, fact-finding body with the potential to make suggest constructive changes and meaningful solutions to a wide range of local government problems. It is composed of volunteers nominated by the Superior Court. The court attempts to impanel a jury that represents a diversity of men and women from various socioeconomic, ethnic, age and educational backgrounds and geographical areas of the county.

## ***Duties***

The primary function of the Grand Jury is the examination of statutorily designated aspects of city government, county government, special districts, redevelopment agencies, local agency formation commissions, housing authorities, joint powers agencies, and non-profit agencies established by or operated on behalf of a public entity. In general, the Grand Jury is assigned the task of assuring honest, efficient government in the best interest of the citizens of Colusa County.

## ***The Grand Jury is also authorized to:***

- Inquire into any charges of willful misconduct in office by public officials or employees;
- Inquire into conditions of jails and detention centers; and
- Inspect and audit books, records, and financial expenditures of all agencies and departments under its jurisdiction, including special districts and non-profit organizations, to insure public funds are properly accounted for and legally spent.

Members of the Grand Jury are sworn to secrecy and most of the jury's work is conducted in closed session. All testimony and deliberations are confidential. Breach of confidentiality is a misdemeanor punishable under the penal code.

Grand Jurors may act only through the Grand Jury as a body. Individually, they have no official standing, power, or authority. A Grand Juror may take no official action without prior approval and authorization of a majority of the Grand Jury. The foreperson is the only official spokesman for the Grand Jury.

## ***The Grand Jury has three (3) ways to exercise its power:***

1. Reports: Written reports evaluating the actions of governmental agencies with recommendations for improvement, when no crime is charged.
2. Indictments: Formal written complaints charging a person with a crime.
3. Accusations: Formal written complaints accusing a governmental employee or officer of misconduct. These are similar to indictments, except that conviction would result in removal of the public officer from office rather than criminal penalties.

# FOREPERSON'S LETTER

Honorable Jeffrey A. Thompson, Presiding Judge  
Superior Court of California, County of Colusa  
532 Oak Street  
Colusa, CA 95932

25 May 2017

Dear Judge Thompson:

As foreperson of the 2016-17 Grand Jury, I am honored to present you with the Jury's final report.

The 2016-17 Grand Jury, I am proud to say, was a dedicated group, representing a wide swath of the county's population. There were some losses to the jury because of medical issues, but life happens to everybody, including grand jurors. The limiting factor for this year's jury was time; some topics which deserved some amount of scrutiny came too late in the Jury's term for inquiries to be made and investigations—if needed—completed. It is hoped that the 2017-18 Grand Jury may have the opportunity to carry on that which was reported to this Jury.

For many, the Grand Jury is seldom thought of. Yet it provides a vital function to the public. The work done is often complex and time consuming. It takes a group of people—mostly strangers to one another—who sacrifice their time and devote their talents to achieve results that can be brought into the public spotlight. As foreperson, I can tell you that among those Jurors who shined were Araceli Alcaraz and Rosa Enciso, holdovers from the previous jury who gave valuable insight to our Jury since they had “been there, done that.” Sarah Keeley, Jury Secretary, and Nikole Burg, her deputy, kept us organized. Last, but certainly not least, were the efforts of Jean-Pierre Cativiela, chairperson of the Editorial Committee. His immense talent and great effort focused the Jury's investigative reports and was instrumental in publishing our final report.

A final mention must be made of the public and professionals encountered by this year's Jury. Throughout the year more than a dozen members of the Jury were in the field, conducting inquiries. Without exception, the Jury found that members of the public and government officials were forthcoming, polite and cooperative in helping the Jury gather the information it needed. Colusa County residents have reason to be proud of themselves and their officials.

Cordially,



Ross Stark  
Foreperson, 2016-17 Grand Jury

# MEMBERS, 2016-17

## Ross Stark, Foreperson

Araceli Alcarez,  
Foreperson Pro Tempore\*

Brandon Rablin,  
Chairperson, County Committee

Dian West,  
Chairperson, Special Districts

Rosa Enciso, Chairperson,  
Criminal Justice Committee\*

Nikole Burg,  
Deputy Jury Secretary

Dana Ash

Dorene Giramonte

Billie Jasper

Kathleen Bowman,  
Chairperson, Audit & Finance Committee

Ellen Hester,  
Chairperson, City Committee

Jean-Pierre Cativiela,  
Chairperson, Editorial Committee

Sarah Keeley,  
Jury Secretary

Armando Diaz  
Casey Ryan

Jim Saso

Denise McCarty

William Dogali

## GRAND JURY'S OATH

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and of the State of California, and all laws made pursuant to and in conformity therewith, will diligently inquire into, and true presentment make, of all public offenses against the people of this State, committed or triable within this county of which the Grand Jury shall have or obtain legal evidence. Further, I will not disclose any evidence brought before the Grand Jury, nor anything which I or any other Grand Juror may say, nor the manner in which I or any other Grand Juror may have voted on any matter before the Grand Jury. I will keep the charge that will be given to me by the court."

(California Penal Code §911)

\*Members, 2015-16 Grand Jury.

# COLUSA COUNTY ENVIRONMENTAL HEALTH COMPOST FACILITY PERMIT COMPLAINT

## **SUMMARY**

The 2016-17 Colusa County Grand Jury opened an investigation into whether a private compost facility on the outskirts of Colusa was operating legally and had obtained proper permits from local authorities. The investigation was prompted by a written complaint addressed to the Jury in March 2017.

## **BACKGROUND**

A Colusa resident submitted a written complaint to the Grand Jury, alleging that noxious odors were coming from compost piles and/or the mushroom plant located in the Colusa Industrial Park at the south end of Colusa. The complainant said they and others had also complained to a member of the County Board of Supervisors. The complainant alleged that the compost company had the wrong permit for its activities and was violating multiple laws.

The Grand Jury, as part of its public watchdog function, commenced an inquiry. With only the narrowest of exceptions, Grand Juries may not investigate private entities such as a private compost manufacturer. Therefore, the Grand Jury's focus was on whether local governments were enforcing requirements for necessary permits for the compost facility's operation.

## **METHODOLOGY**

### ***Interviews***

The Grand Jury interviewed the elected supervisor for the district in which the compost facility was located, and who was mentioned in the written complaint. Additionally, members of the Jury interviewed the Director of Planning and Building for Colusa County. The Environmental Health Department, formerly a division of Colusa County Health and Human Services, was transferred to the control of the County Planning and Building Department in January 2017.

### ***Documents***

The Grand Jury reviewed the following documents as part of its investigation:

- Letter of complaint, identifying the problem and location.
- Minutes from Board of Supervisors meetings from June 2016 to April 2017 (the latest available records at the time).
- Copies of emails from County staff regarding the problem.
- Copies of correspondence between County staff and the operators of the private composting company.
- Pertinent regulations mentioned in correspondence and/or concerning wastewater discharge.



## DISCUSSION

### ***The location***

The composting facility involved is located to the south of Colusa, off Niagara Avenue near the Colusa Airport. It is one of several companies working in the Colusa Industrial Properties complex. The facility is adjacent to a mushroom processing facility and utilizes unused rice fields leased from another party. The area's zoning use is "Heavy Industrial" and a composting facility is an allowed type of industry for such a zoning classification, according to county officials and the county's zoning map.

### ***Odor nuisance***

Based upon interviews conducted by members of the Jury the problem was identified as follows:

The mushroom processing facility uses biomass as a growth medium for producing mushrooms. The biomass produces an odor, and when the wind blows from the south the odor carries to the north, into residential areas within the City of Colusa. Many have complained about offensive odors to both the mushroom facility and to the Environmental Health Division of the County Health Department.

In summer 2016, a private agribusiness involved in composting materials for eventual sale to farming operations moved their pre-compost biomass to the industrial tract, placing it into unused rice fields leased from another party. The agribusiness then began taking on the used biomass from the mushroom facility, mixing that material with other materials that were already on hand and additional material imported over the following months. Part of the imported material included quantities of chicken manure.

The fall and winter of 2016-17 came with significant rainfall. The composting materials in the fields became oversaturated and to a large extent, liquefied ("turned to soup" was one description). The size of the fields and the liquidity of the materials made it impossible to turn or stir the materials. Composting relies on aerobic decay to become fertilizer-worthy material. The liquefied material instead turned anaerobic, leading to the development of the odor problem.

### ***The regulations***

Composting operations are subject to extensive state regulations, primarily through the California Department of Resources Recycling and Recovery, better known as CalRecycle. Although the state formulates the regulations the enforcement is left to a "Local Enforcement Agency" (LEA), which, for Colusa County, is the Environmental Health Division.

Among the myriad regulations is a provision that a composting facility is limited to having on-hand, no more than 12,500 cubic yards<sup>1</sup>. There is a limited exception known as a *Seasonal Storage Adjustment* which allows a facility to exceed the 12,500 cubic-yard limit during months when compost material isn't being sold, but a permit exception must be issued by the LEA.

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<sup>1</sup> Pursuant to Title 14, California Code of Regulations, §17857.1(a). Usually shortened to 14 CCR 17857.1(a).

As part of the permit process the facility must also implement an Odor Impact Minimization Plan<sup>2</sup>, which among other things, require data collection protocols, a description of meteorological conditions and their effect on odors generated by the facility, a complaint handling process, and a description of the processes and practices to minimize odors caused by the facility.

For a facility that (beyond a Seasonal Storage Adjustment) processes more than 12,500 cubic yards of compost material, the permit exceeds that of a composting facility and instead is classified as a full Solid Waste Facility, which triggers additional regulations.

Additionally, and significantly, a composting facility is also subject to regulations established by the State Water Resources Control Board, pertaining to water runoff from the facility. The requirements address water as a byproduct of composting, including detention and treatment ponds if needed, as well as water detention and discharges in storm events. The specifics are contained in the State Water Resources Control Board Order #WQ 2015-0121-DWQ *General Waste Discharge Requirements for Composting Operations*<sup>3</sup>. As with the CalRecycle regulations, the water discharge regulations are much more involved when the compost facility exceeds 12,500 cubic yards of material.

Violation of State Water Resources Control Board regulations are handled by the agency's enforcement branch, not County government.

According to CalRecycle regulations and State Water Resources Control Board orders, a composting facility must have the requisite permits prior to commencing to operate.

As part of the Jury's research it was found that the mushroom processing facility was a permitted solid waste handling facility registered with CalRecycle. Additionally, it was learned that compost material used *during* mushroom farming is excluded from compost regulations, but that the material is subject to regulations before and after the farming process<sup>4</sup>.

#### ***Permit need and compliance***

The following information is based upon documents received by the jury. Unless otherwise noted, the major points of the documents are listed as synopses in a numbered list.

1. The first mention of the compost facility and its need for permits is in an email dated September 2, 2016 from the Environmental Health Department to the compost facility operator. The email announces that the facility will need a permit from Environmental Health and goes on to outline the requirements for the permit, including a permit from CalRecycle, an operational plan of the facility, Odor Impact Minimization plan (noted as "very critical due to location of this operation"), the potential need for a CEQA (California Environmental Quality Act) document and the need to check with the State Water Resources Control Board for the potential need for a storm water holding pond. The email doesn't mention how long the facility has been operating.

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<sup>2</sup> Outlined in 14 CCR 17863.4.

<sup>3</sup> The SWRCB order, a 64-page document, is referenced only in this report and is not included as an attachment.

<sup>4</sup> Outlined in 14 CCR 17855(a)(3).

2. An email dated September 19, 2016 from Environmental Health to the compost facility management, informing them of a complaint of the smell at the facility and the desire to “touch base” regarding the information sent in the email of September 2. The email warns the facility operator that enforcement is a possibility.
3. An email dated October 14, 2016 from Environmental Health to other staff in the Health and Human Services Department (of which Environmental Health was then a division thereof) pertaining to a fire at the compost site. (The documents reference other instances of fire at the compost site, making it a matter for the Air Pollution Control District. With one or two exceptions, smoke/fire problems at the site will not be further discussed in this investigation).
4. Two emails, dated December 21, 2016 from the compost facility management to Environmental Health with questions pertaining to the type of permit needed for the facility. In that email the facility reported it had “somewhere +/- 10,000 tons or 25,000 yd3 at any given time of finished compost.” The term ‘yd3’ is assumed to mean cubic yards.
5. A three-page list showing dates of complaints made by area residents. The document’s author is unknown. The list is a timeline of complaints, beginning June 30, 2016 and ending March 6, 2017. The first few complaints address smoke only. A notation for August 8, 2016 states that a Notice to Comply was sent to the facility management from the APCD (Air Pollution Control District). Odor complaints started on August 10, 2016 (15 that day alone) and continue through August. Odor complaints increased on August 15. From August to October, most complaints are about smoke but beginning in late October to March 2017 the complaints center on odor (10 complaints).
6. A letter dated October 21, 2016 from the Office of County Counsel to Colusa Industrial Properties warning them of their tenant’s air quality violations (the smoke). The letter also references the lack of permits for the compost facility. A response from the Industrial Properties, dated October 24 mentions plans to relocate the compost site approximately one mile west of its current location.
7. An email dated February 6, 2017 from Environmental Health to the facility management, informing them of additional complaints on the smell and urging them to move forward with their permitting.
8. An email dated March 6, 2017 from Environmental Health to other persons whose affiliation is not clear. The email speaks of numerous complaints. It adds that the facility management was contacted and they reported they were not composting at present because of wet conditions.
9. An email from Environmental Health to the facility management dated March 17, 2017 containing as an attachment a letter dated March 16, 2017 warning of pending formal

enforcement actions because of the lack of permits. The email mentions the County seeks to obtain voluntary correction of the violations whenever possible.

10. An email dated March 24, 2017 from Environmental Health to the facility management speaking to a meeting they had regarding the facility's current operations, potential changes and the various permit requirements. The email centers on a request for the facility to exceed a 12,500 cubic-yard limit.
11. A letter dated March 29, 2017 from the facility management to Environmental Health, outlining their plans regarding the site. They mention steps on odor mitigation and permit application.
12. A letter dated April 5, 2017 from Environmental Health to the facility management, responding point-by-point to the management's plans. The letter specifies that a full Solid Waste Permit will be needed if the compost material exceeds 12,500 cubic yards. It also addresses the management's plans to obtain a new site for the compost, pointing out that the new site would still be unpermitted. The letter closes with a notation that given the length of time the unpermitted site has been in operation, the option of being given additional time to achieve compliance is limited.
13. Two emails dated April 5, 2017 and April 7, 2017 from Environmental Health to facility management reiterating the need for the site to come into compliance with permit regulations.
14. An email dated April 17, 2017 from Environmental Health to facility management, telling them they will be receiving formal administrative orders detailing the expectations for permit submittal expectations and enforcement actions that the County will be required to implement. The email also requests that management review the requirements of the State Water Resources Control Board regulations concerning the site.

#### ***Additional document review***

The following are bullet-pointed synopses of activities noted by the Jury:

- Board of Supervisors meeting minutes from their September 20, 2016 meeting include public comment from one area resident concerning the odor problem from the compost plant next to the airport.
- Board of Supervisors meeting minutes for their October 18, 2016 meeting. In these, the Board is updated on the planned transfer of the Environmental Health Division from the Health and Human Services Department to the Department of Planning and Building. The changeover is expected to occur by January 1, 2017.
- Board of Supervisors meeting minutes for their April 7, 2017 meeting. The Director of Planning and Building discussed the compost facility's status and its lack of required permits.

***Investigative interview***

The Director of Planning and Building was interviewed concerning the compost facility and its need for mandated permits. The interview was held April 26, 2017.

As background, in 2016 the Environmental Health Division for Colusa County was part of the county's Health and Human Services Department. It was transferred to the Planning and Building Department in January 2017.

Based on the statement of the Director's statement and the timeline (item 5 above), Environmental Health was first aware of the odor problem on June 30, 2016 from complaints made by the public. Many of the complaints were about smoke from fires that broke out in the composting material and smoldered for days. There have been "many, many" complaints about the facility.

There were numerous site visits made by Environmental Health staff and several conversations, both in person, by phone and by email concerning the odor problems and the need for the facility to have permits from Cal Recycle and the State Water Resources Control Board.

The first documented request for permits was made on September 2, 2016. The compost facility management was told of the permit requirements and the appropriate agencies involved.

After Environmental Health was transferred to the Planning and Building Department more emphasis was placed on the compost facility. Up to that time Environmental Health was focused on another problem involving a state mandated audit of hazardous material handling and storage practices.

In a renewed review of the composting facility, Environmental Health had concerns over the quantity of material at the site. For quantities up to 12,500 cubic yards, a basic composting facility permit would suffice. Exceeding the 12,500 cubic-yard limit would require a much more complex full Solid Waste Facility permit. Such a permit would probably trigger a CEQA process and necessitate a full Environmental Impact Report (EIR); a process that could take up to 18 months. All of that would have to be completed before the compost facility could begin operation.

In a survey of the site in March 2017 Environmental Health staff estimated there were at least 23,000 cubic yards of material on site, making it subject to Solid Waste Facility permit requirements.

By March 2017 it was apparent to Environmental Health that there was no significant movement by the compost facility management to comply with permit regulations. It was felt that the composting company was overwhelmed with the requirements needed to operate a compost facility, especially if it progressed to a solid waste facility. Environmental Health began formulating a cease and desist order for the facility.

### ***Order to Cease and Desist***

On April 26, 2017, Environmental Health issued a Notice and Order to Cease and Desist, and To Take Corrective Action. The order, #LEA-2017-01 was addressed to the compost facility operator, the industrial park operator where the facility was located and to the party who leased the composting fields to the composting company. The nine-page order included numerous attachments, bringing the combined packet to approximately 174 pages.

The order outlined the timeline of events regarding the facility, including site visits over a nine-month period and numerous contacts both by mail and in person over permit requirements for the facility. The order directed the facility management to stop importing material to the site, remove all material in excess of 12,500 cubic yards, and present documents establishing the facility has obtained the necessary permits, including a permit from the State Water Resources Control Board. A deadline of April 28, 2017 was given.

### ***Updated Results***

The investigation of this subject came at the end of the 2016-17 Grand Jury's term. In a second interview in mid-May 2017 it was reported by Environmental Health that the composting facility notified them they'd be exiting the composting business and expected to have the material removed from the site in the coming weeks.

## **FINDINGS**

F1. The Environmental Health Division was aware of the existence of the composting facility as early as June 2016, based on the complaints received by county departments and listed in an agency-provided timeline of events.

F2. Environmental Health made its first documented outreach to the compost facility management in September 2016, outlining the need for CalRecycle permits as well as the potential need for a wastewater discharge permit from the State Water Resources Control Board (SWRCB).

F3. Based on the December 21, 2016 emails from the compost facility's management, Environmental Health was aware that there were approximately 25,000 cubic yards of compostable material on site. As such, the site would have required a full Solid Waste Facility permit.

F4. Based on the information already in their possession, Environmental Health was aware that the composting facility was required to have its necessary permits (both CalRecycle and SWRCB permits) *before* commencing operations.

F5. From September 2016 to April 2017, the compost facility was allowed to operate as an unpermitted solid waste facility, which was the source of significant public concern insofar as an odor nuisance and wastewater discharge hazard. Environmental Health's position on the compost facility's operation was to gain cooperative compliance instead of compliance through enforcement action. In that period, there was no significant movement by the facility's management to comply with the permit requirements.



F6. Because of the lack of progress on the needed permit requirements, Environmental Health's position switched from 'cooperative compliance' to active enforcement. Final warnings were given in March 2017. In April 2017, an Order to Cease and Desist was issued.

### **RECOMMENDATIONS**

R1. The Grand Jury recommends that the Environmental Health Division of the Planning and Building Department formulate a policy wherein facilities or operations that need official permits under its jurisdiction are identified.

R2. The Environmental Health Division should develop policies and practices to commence enforcement action more quickly in cases of non-compliance.

R3. In cases of facilities or operations that are in the process of obtaining needed permits, Environmental Health should set firm deadlines for compliance, prioritizing public health and safety over "cooperative compliance."

### **DISCLAIMER**

This report on the Environmental Health Department is issued by the full 2016/2017 Grand Jury, with the exception of two members, one of whom is an employee of a regulating agency and one of whom is an employee of a company doing business directly with one of the companies described in the report. These Grand Jurors were excluded from all parts of the investigation, including interviews, deliberations and the making and acceptance of this report. This report is based on information obtained from outside sources with none of the information being obtained from the excluded Grand Jurors.

# NEW STATE TAX TO HELP, BUT WILL LIKELY LEAVE COUNTY ROAD REPAIRS UNDERFUNDED

## SUMMARY

Under its statutory authority, as part of its routine watchdog function and in response to Grand Jurors' observations of poor road conditions in some parts of the county, the Grand Jury decided to conduct a routine investigation of the Colusa County Department of Public Works and its Road Department division. Relevant state and local government documents were reviewed as well as nongovernment reports and news media accounts related to local road funding needs. Top managers at the Department of Public Works were interviewed. The Grand Jury finds that general conditions of roads within the county are "at risk" – a rating between "good" and "poor" and have been that way for some years. The Grand Jury further finds that construction, repair, and maintenance of local roads is chronically and significantly underfunded. The Grand Jury further finds that despite the shortfall, Department of Public Works management has made efforts to identify and apply for additional grant funding and to make the most of its limited resources. Recently passed legislation will likely mean additional revenue for county road repair and construction. However, even with new funding, local road maintenance efforts are likely to remain significantly underfunded. Future Grand Juries should consider continuing to monitor the overall condition of County roads to see if improvement occurs with additional funding.

## BACKGROUND

The primary function of the Grand Jury is the examination of certain aspects of county government, city governments and special districts, sometimes referred to as a "watchdog function." California Penal Code requires the Grand Jury to selectively investigate and report on the operations, accounts and records of county and other local public agencies, officers, departments, or functions.

Per California Penal Code Article 2, Section 925, "The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county ..." Further, Section 928 provides that "Every grand jury may investigate and report upon the needs of all county officers in the county, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of, the several offices. Such investigation and report shall be conducted selectively each year." Finally, Section 933 requires that "each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year."

Based on poor road conditions observed in 2016 by some of its members, the Grand Jury decided to exercise its responsibility and authority as described above to review funding and maintenance procedures for the county's roads, specifically those public roadways within the authority of the county and not roads maintained by the federal or state government (e.g. forest roads, highways, and interstates) and not roads associated with the cities of Colusa and Williams (city streets).

## METHODOLOGY

Grand Jurors used research, observation, and interviews with key officials to gain an understanding of how county road maintenance is funded and carried out.

Documents reviewed by Grand Jurors included:

- County Board of Supervisors' minutes related to road funding
- County organizational charts
- Budget summaries from five recent fiscal years
- Printouts of county maintenance requests and notes on their disposition from September 2015 through September 2016
- Records of Colusa Capital Improvements on Roads and Bridges 2005 to 2016 broken down by Supervisorial Districts
- Maps of county roads
- Photographs of county roads in various states of disrepair
- Documents from the State of California Division of Transportation Planning, Economic Analysis Branch, regarding the state and federal governments' highly complex tax and funding schemes for roads, highways, and bridges
- "California Statewide Local Streets and Roads Needs Assessment: Final Report, October 2016"<sup>5</sup>

Grand Jurors also twice interviewed both the County's Director of Public Works Director and the County's Assistant Director of Public Works, once December 2016 and again in May 2017.

## DISCUSSION

### ***Condition of roads is below "good" and not getting significantly better***

Statewide reports, local observation and interviews with county officials had a common theme: The county's roads are not in good condition, and generally are not improving in recent years. By all accounts, significant funding – on the order of hundreds of millions of dollars – would be needed to raise the overall condition of county roads to an objectively "good" rating using Pavement Condition Index or PCI, a numerical index between 0 and 100 developed by the U.S. Army Corps of Engineers, which is used to indicate the general condition of a pavement. It is widely used in transportation civil engineering. A statistical measure, PCI requires manual survey of the pavement. According to the Director of the Colusa County Department of Public Works, PCI is essentially a blend of both whether roads are paved, and the condition of the roads. Thus, PCI can be raised both by paving unpaved roads, and by repairing already paved roads.

According to the "California Statewide Local Streets and Roads Needs Assessment: Final Report, October 2016" (hereafter "2016 Needs Assessment Report"), all local streets and roads in Colusa County (including those not within county government authority) – about 987 miles in

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<sup>5</sup> Report author NCE (Richmond, California) on behalf of California State Association of Counties and multiple fiscal sponsors, including Colusa County, see also [www.savecaliforniastreet.org](http://www.savecaliforniastreet.org), accessed May 2017 at <http://www.savecaliforniastreet.org/wp-content/uploads/2016/10/2016-CA-Statewide-Local-Streets-and-Roads-Needs-Assessment-Final-Report.pdf>

all – had an average PCI of 63 in 2016. In comparison, the PCI for the same roads over most of the past decade has been similar:

Table 1, Recent conditions of local roads in Colusa County

| Year | PCI | Excellent<br>(86-100) | Good<br>(71-86) | At-risk<br>(50-70) | Poor<br>(0-49) |
|------|-----|-----------------------|-----------------|--------------------|----------------|
| 2008 | 61  |                       |                 | X                  |                |
| 2010 | 60  |                       |                 | X                  |                |
| 2012 | 62  |                       |                 | X                  |                |
| 2014 | 62  |                       |                 | X                  |                |
| 2016 | 63  |                       |                 | X                  |                |

As Table 1 shows, by statistical measurements, there has been no significant improvement or decline in local road conditions in recent years. However, overall conditions rank as “at-risk,” meaning they rank between “good” and “poor.”

Most, but not all, of the local roads mileage identified in the 2016 Needs Assessment Report are in the authority of the county (as opposed to the cities of Williams and Colusa). Of the 987 miles identified in the report, about 713 miles or 72 percent of the local roads fall within the county government’s authority. Of those 713 miles, about half are paved and the remainder are gravel roads, according to Colusa County’s Assistant Director of Public Works.

The statistics and characterization of the overall condition of the roads in the Needs Assessment Report was not disputed by the Colusa County Director of Public Works, who said he “wouldn’t be comfortable saying PCI is getting better.” The County Road Department is a division of the Department of Public Works and is under the Director of Public Works’ supervision. In addition to the Director, the Road Department has two senior managers with more than 25 years of experience each.

#### ***Current funding levels volatile and inadequate to meet county’s needs***

The county’s largest source of road construction and maintenance funding each year is the state of California. One of the chief sources of state funding is the Highway Users Tax Account, or HUTA, which according to State Controller Betty Yee’s office, has delivered between \$111,724 and \$177,491 per month to the county in each month so far of the 2016-17 fiscal year.<sup>6</sup>

The Director of Public Works described overall county road funding as extremely volatile, a description that is borne out by the budgets of the last five fiscal years. While HUTA funding is itself highly volatile, other funding sources have proven to be even more so in recent years (see Table 2):

<sup>6</sup> [http://www.sco.ca.gov/Files-ARD-Payments/Highway/fy1617\\_hwycounty\\_ytd\\_rpt\\_monthly.pdf](http://www.sco.ca.gov/Files-ARD-Payments/Highway/fy1617_hwycounty_ytd_rpt_monthly.pdf) accessed May 2017

**Table 2: Colusa County Road Fund revenues**

|  | 2011-12          | 2012-13          | 2013-14          | 2014-15          | 2015-16          |
|--|------------------|------------------|------------------|------------------|------------------|
| Highway Users Tax Account                                | \$2,914,048      | \$2,008,208      | 2,920,939        | 2,253,449        | 1,845,337        |
| State match/exchange                                     | 243,554          | 0                | 487,108          | 243,554          | 243,554          |
| State Transportation Improvement Program                 | 0                | 0                | 2,620,131        | 0                | 0                |
| Property tax in lieu of Vehicle License Fee/General Fund | 1,529,746        | 2,468,404        | 1,643,614        | 640,525          | 640,525          |
| All other sources  | 706,883          | 980,950          | 674,230          | 864,292          | 639,470          |
| <b>TOTAL ROAD FUND REVENUE</b>                           | <b>5,394,231</b> | <b>5,457,562</b> | <b>8,346,022</b> | <b>4,001,820</b> | <b>3,368,886</b> |

Source: Colusa County Department of Public Works

As Table 2 shows, funding for Colusa County road projects has varied from as little as \$3.37 million to nearly \$8.4 million over the past several years. Yet even in peak years, funding falls far below what would be necessary to raise the quality of county roads to “good” condition, that is, to a PCI of 70 or above. According to the Director of Public Works, raising the condition of all local roads (county roads and city streets) to a score of 70 would require as much as \$320 million over the next 10 years, or an average of about \$32 million a year. In comparison, the five-year funding average between 2011 and 2016 was just \$5.3 million.

In fact, the 2016 Needs Assessment Report suggested that overall local funding needs may be even higher than that. The report calculates all local (county and city) needs over the next 10 years as \$301 million for roads, \$26 million for “essential components” (e.g. storm drains, sidewalks, and signage) and \$12 million for bridges, or about \$339 million total. However, this includes roads within cities.

Allocation of funding for major county road construction projects (over \$50,000) is approved by the County Board of Supervisors, while smaller repair projects are at the discretion of the Road Department management.

#### ***Other consequences of funding shortfalls***

According to officials at the Department of Public Works, one consequence of underfunding of roads is that areas in need of new road construction/paving must wait longer than the service life of the road, leading to increasing need for repair in both frequency and scale. At the same time, resources are also limited for road maintenance, leaving more road repair needs than can be met with existing road crews.

In some cases, the county deliberately removed formerly paved roads and replaced them with gravel roads. Though these do not perform as well as newly paved roads, they can be an improvement compared to poorly maintained paved roads, the Director of Public Works said. Gravel roads need more frequent maintenance overall, but doing so is significantly less

expensive than major repairs to paved roads, so converting back to gravel roads can be a stopgap strategy when awaiting sufficient funding to construct a new road, especially in the county's most rural, least trafficked areas.

"We do the best we can," the Director of Public Works said, noting that maintenance of roads is something of a triage process. Major roads and areas with heavier traffic are repaired first, while roads with less traffic often wait much longer. Conditions that seriously threaten safety are always prioritized, he said. He said he understands the frustration of those who, because of where they live, are forced to travel roads less frequently repaired: "Every one of these miles, to someone, is the most important mile."

The county logs complaints of damaged roads, noting the eventual disposition of such complaints. Grand Jurors reviewed a log of such complaints from a one-year period between late 2015 and late 2016. Grand Jurors observed and photographed severely damaged roads in some rural areas of the county in late 2016. Many of the photographed areas have since been repaired.

***Public-private partnerships and other opportunities to stretch county dollars***

In mid-May, the Department of Public Works applied for a \$10.2 million grant under the Federal Lands Access Program (FLAP). Though the program is highly competitive, if funded, the county would be able to reconstruct 3.5 miles of heavily traveled road in the northwest portion of the county. While grants can be extremely helpful, there is a limited amount of staff hours available to spend applying for such grants, and because of the highly competitive nature of such grants, the Department needs to be selective in which to apply for, according to the Director.

At times, local landowners and business owners provide co-funding to prioritize projects. The Assistant Director of Public Works described several instances where successful projects were carried out. In one example, a landowner paid for approximately \$5,000 worth of road base material to accelerate a project to pave one-half mile of a (public) gravel road near Princeton. In another case, an agribusiness company contributed \$12,000 worth of concrete to reinforce a section of road where heavy agricultural equipment was frequently crossing. The Assistant Director described these as win-win projects where county road crews provided the labor and tax dollars were matched by a local private sector contribution, even though such bargains may only be struck for public roads.

***Will the recently passed Senate Bill 1 mean better roads in Colusa County?***

In late April, Governor Jerry Brown signed SB 1 (Beall) regarding transportation. According to news media reports, the new law raises taxes on diesel and gasoline fuels and vehicle registration fees and will raise approximately \$5.2 billion annually for road and bridge repairs as well as expanded mass transit.<sup>7</sup>

The Department of Public Works estimates the new taxes could eventually bring \$2.5 million annually into the county, which would help, but would still leave the county short of funding compared to its overall needs. "Most people think it is going to help, but it is not going to be a

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<sup>7</sup> <http://www.latimes.com/politics/la-pol-sac-gas-tax-signing-20170428-story.html>, accessed May 2017, "Gov. Brown signs bill raising gas tax and vehicle fees by \$5.2 billion annually for road and bridge repairs" (*Los Angeles Times*, published April 28, 2017).



fix-all,” the Director said.

#### **FINDINGS**

F1. Overall conditions of Colusa County roads remain “at-risk,” meaning that the roads score below 71 on the Pavement Condition Index (PCI), a widely-used method of rating overall road conditions.

F2. Funding for county road construction and repairs ranged between \$3.37 million and \$8.4 million annually between 2011 and 2016.

F3. More than \$300 million in funding over a ten-year period (more than \$30 million annually on average) would be needed to improve county roads to a PCI of 71 or above and thus achieve “good” status for the county’s roads.

F4. There is a significant shortfall of funds needed to improve the county roads, with current revenues on an annual basis representing less than one-fifth of what would be needed each year for a decade to raise roads to “good” status.

F5. Passage of state Senate Bill 1 (gasoline/diesel tax and registration fees) in April 2017 could bring an additional \$2.5 million annually in road funds to the county, but would still leave a significant shortfall.

F6. The County Road Department has an experienced staff that exercises diligence in making the most of limited funding by seeking grants, effecting public-private partnerships, and making efforts to prioritize road repairs and respond to complaints.

#### **RECOMMENDATIONS**

R1. The Department of Public Works should continue its efforts to secure grant funding to supplement limited Road Department Fund.

R2. The Road Department specifically and the County government more generally should explore ways to leverage public-private partnerships to improve conditions on public roads where desirable to both the county and local road users.

R3. Future Grand Juries should consider monitoring changes in local road funding coming from SB 1, and determine whether improvements in the county’s PCI occur as a result.

# AWAITING CONSTRUCTION OF NEW FACILITY, OUTDATED JAIL CONTINUES TO FUNCTION

## SUMMARY

As required by state law and consistent with past practice, the Colusa County Grand Jury conducted a routine inquiry into the Colusa County Jail facility in the City of Colusa. The jail continues to await planned construction of a new adult detention facility at the same site. Though the current facility is by all accounts inefficient and outdated in design, the county government and jail staff appeared to be making diligent efforts to ensure that the jail is functioning properly. After both observing inmates in their housing and interviewing selected inmates, Grand Jurors found that inmates appeared to be housed safely and humanely with access to adequate food, clothing, and medical care. Just as importantly, staffing levels at the jail appeared adequate to maintain safety and security and general working conditions for jail employees appeared satisfactory. The Grand Jury makes no recommendations as a result of this inquiry.

## BACKGROUND

Per California Penal Code Section 919 (b), “The grand jury shall inquire into the condition and management of the public prisons within the county.” Further, Penal Code Sections 919 (a), 925, and 925(a) authorize the grand jury to investigate county and city jails and other detention facilities (excepting federal prisons). According to the California Grand Juries Association,

“Most jurisdictions, at the lowest level, consider an inquiry to be a ‘walk-through-look-see,’ during which jurors ask questions of staff. However, more intensive examinations can be and frequently are done. Although the Penal Code does not require the jury to write a report following an inquiry, many juries do. Research, observation and interviews are the three basic methods whereby a jury conducts its investigation.”<sup>8</sup>

Based on the above requirements and authorities, it has been the practice of the Colusa County Grand Jury to conduct annual inspections of the Colusa County Jail.

## METHODOLOGY

Grand Jurors used research, observation, and interviews during an unannounced site visit to evaluate the jail. Specifically, jurors utilized a suggested jail inspection form and questionnaire prepared by the California Board of State and Community Corrections (BSCC) to guide their inquiry. Seven Grand Jurors visited the Colusa County Jail on November 17, 2016, conducting interviews with the sheriff and jail supervisor, before walking through and observing the booking area, inmate cells, laundry, food preparation areas and internal and external recreation areas. Grand Jurors also interviewed two inmates, one male and one female.

## DISCUSSION

Grand Jurors were briefed by the sheriff on plans to construct a new, 96-bed jail facility with a

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<sup>8</sup> The California Grand Jury System, Third Edition, ISBN 978-1-4507-1771-7 © 2014 by the California Grand Jurors’ Association.

\$20 million grant from the State of California. Some housing areas of the current jail will be decommissioned but structures will not be destroyed. The schedule reported at the time of the interview called for selecting a contractor for construction in late 2017, with groundbreaking in 2018 and doors opening for the new facility in 2020. The new facility will not have significantly more capacity than the current facility (96 beds versus the current capacity of 92), and the jail supervisor reported that on the day of the interview, there were 73 inmates in the jail. Asking if there are enough jail employees to monitor the inmates, Jurors were told that there is never enough staff, and they need two more staff to adequately staff the jail. However, the County Board of Supervisors also had recently authorized an additional correctional officer position, Jurors were told. Jail staff is roughly evenly divided between males and females, jurors were told.

Rather than increasing capacity, the goal of the planned new facility is to increase the overall safety and security of the jail for both inmates and jail employees. The new facility will be circular and divided into six pods, each visible from an elevated central tower.

Asked about discipline issues and how those are managed, the jail supervisor said the most common violations by inmates include damaging property such as sheets, minor theft and smoking, and occasional fighting. Most fights do not lead to injury, but “every couple of months” medical care is needed for an inmate injured in a fight with another inmate. He discussed a progressive system of discipline for inmates, which begins with verbal warnings, progresses to temporary loss of commissary privileges, and can eventually lead to a disciplinary diet that is nutritious but not tasty. In the event of more serious violations, solitary confinement is an option.

Asked about the most common grievances and concerns received from inmates, the jail supervisor reported that inmates most frequently complain about the food, which they generally describe as too bland (possibly because the contractor generally uses low-sodium recipes). Other common complaints include assertions that medical care is inadequate, especially access to medications.

Medical services are provided by an offsite contractor that is widely used by California jails and which operates in 38 of California’s 58 counties. Via this contractor, a registered nurse is on-call to serve the inmates’ medical needs for 40 hours weekly from Monday through Friday, and a doctor visits the jail for four to six hours weekly. If an emergency room visit is required due to injuries in a fight or accident, or illness, inmates are transported to the emergency room at Willows or Marysville. Dental care is also provided, but under a separate local contract. Colusa County Behavioral Health provides services, with a psychologist visiting the jail about every two weeks, and mental health workers visiting for a few hours each day. According to jail staff, many inmates have a history of substance abuse problems; Alcoholics Anonymous and Narcotics Anonymous classes are offered, as well as training in life skills/personal responsibility. Art therapy is offered. Religious services are offered in English and Spanish. Inmates can receive mail and subscriptions.

Following interviews with the sheriff and jail supervisor, Grand Jurors toured the facility beginning with the dispatch area, where it was reported that two dispatchers are always present.

Next the jurors visited the booking area, where prisoners are screened, fingerprinted, and booked. Translation services are available in the booking area for those who do not speak English.

Jurors visited the cells where inmates are housed most of the time (exercise is generally allowed 30 minutes to one hour per day but is only required for three hours weekly, according to the jail supervisor). Cells vary in size, with 12 small “single-inmate” cells that are roughly five feet wide by nine feet long. There are six larger eight-man cells, one 10-man cell, and one 12-man cell. Females are usually house in a single dorm. Efforts are made to house inmates together who are likely to get along with each other, considering factors such as age, cultural identification, possible gang affiliation, etc., according to the jail supervisor.

Next Jurors visited the kitchen, where meals prepared off-site by a contractor located in Alameda County are delivered to the jail several times a week, then kept refrigerated until meal times, when they are reheated (if intended to be served hot) before serving. Inmates receive two hot meals daily and one cold meal each day. Average cost to the county per meal was reported as \$2.41. Different types of meals are available depending on an inmate’s health status, such as meals for diabetics, meals prepared for those with allergies, meals for people with faith-based food preferences, etc.

The tour continued into the recreational area, the classroom, chapel area, and nurse’s station. Next Jurors were taken to the visiting area, where inmates can visit with family or friends periodically; conversations occur through a secure window. Jurors also viewed an area where inmates can meet with their attorneys in a one-on-one setting. Colusa County Office of Education provides education services to the inmates for 14 hours each week, according to jail staff. Class offerings include subjects such as history and nutrition. No more than 6 to 8 inmates can be accommodated in a class.

Jurors interviewed two inmates, one male and one female. Questions followed BSCC guidelines, focusing on how the inmates felt they were being treated, their safety, well-being, and comfort. The interviewed inmates indicated they are treated with respect by jail employees, who they described as having a professional attitude. Both inmates described the food as bland and unappealing.

## **FINDINGS**

F1. Plans are underway to upgrade the Colusa County Jail, with doors to open as early as 2020.

F2. The current jail is outdated and in need of updating to ensure safety of both inmates and jail workers. However, the current jail does not appear to be overcrowded.

F3. The Grand Jury observed no serious issues regarding humane treatment of inmates and it appeared that jail staff specifically and the county generally make diligent attempts to provide nutritious food, exercise, safety, medical, dental, and mental health care, substance abuse counseling, faith-related services, and other basic human needs.

F4. It appears that one of the greatest safety risks for inmates, and potentially for jail employees,

is the possibility of injuries when fights between inmates occur. The new facility may help with this somewhat because of the ability for correctional officers to see more of the inmate space more of the time, and respond more quickly when needed.

#### **RECOMMENDATIONS**

NONE

#### **DISCLAIMER**

This report on the Colusa County Jail is issued by the full 2016/2017 Grand Jury, with the exception of one member, who is an employee of the Colusa County Sheriff's Department. This Grand Juror was excluded from all parts of the investigation, including interviews, deliberations and the making and acceptance of this report. This report is based on information obtained from outside sources with none of the information being obtained from the excluded Grand Juror.

# COLUSA COUNTY CLERK/RECORDER ELECTIONS DEPARTMENT, 2016 PROCESS

## **SUMMARY**

The 2016-17 Colusa County Grand Jury's decision to conduct this investigation into the local election process was brought on by a request from the Clerk-Recorder for the County of Colusa. That request, combined with national headline news purporting the potential for voter fraud during a tumultuous election cycle, led to the Grand Jury's decision to review the local voting process. This was done as part of the Grand Jury's public watchdog function. The Grand Jury received no allegations calling into question the activities of the Elections Department or the vote processing methods. Grand Jurors interviewed the County Clerk, observed polling places and interviewed poll workers during the November 2016 election and reviewed documents related to election procedures. No significant issues were found. Poll workers were found to be generally well-trained, experienced and the vote collection and tabulation process went smoothly. The Grand Jury offers minor recommendations to ensure voter privacy is protected (consistent with the County Clerk's guidelines) and that voters choosing to cast ballots outside of their precincts are fully informed of the potential consequences of doing so.

## **BACKGROUND**

In September 2016, the Grand Jury received a request from the Colusa County Elections Department to observe both the pre-election and actual election day activities of the county's election tabulation activities. In addition to state and local election races, the November 2016 election included a tumultuous Presidential election, with predictions of voter fraud or vote tampering.

The Grand Jury, as part of its public watchdog function, looked into the actual mechanics of vote processing in the Elections Department as well as the Department's performance in conducting the election.

## **METHODOLOGY**

### ***Documents***

The Grand Jury reviewed the following documents as part of its inspection:

- Letter from the Elections Department, requesting the Grand Jury's presence, along with attachments detailing the Elections Department schedule of election events, polling place locations and current voter registration data.
- The Elections Department comprehensive training manual for poll workers.



### ***Site tours***

The Grand Jury conducted inspections of select polling places in the communities of Arbuckle, Colusa, and Williams as well as the vote tabulation at the Clerk Recorder's Office in the Courthouse. The Grand Jury observed the interactions between voters and poll workers as well as poll workers handing out, receiving, and processing ballots.

### ***Interviews***

The Grand Jury interviewed the head of the Elections Department for an overview of the Department's handling of the election process, including the Department's structure, number of poll workers involved in the election process as well as their training. The Jury also spoke with several of the poll workers at the polling places visited regarding their experience, their part in the voting experience and any difficulties they faced in carrying out this election.

## **DISCUSSION**

### ***The voting public***

Colusa County's roughly 8,600 registered voters are spread among the 18 individual voting precincts. Not all precincts have polling places. Polling places are physically located in the communities of Arbuckle, Colusa, Maxwell, and Williams. The other communities, Grimes, Lodoga, Stonyford, Venado and Princeton, are mail ballot precincts.

### ***Pre-election preparation***

To accomplish its duties, the Elections Department within the County Clerk Recorder's Office employs six full-time staff members, all of whom perform functions in the Clerk Recorder's Office, but are assigned to the Elections Department for the duration of the election event (both pre- and post-election activities). Those employees are based in the courthouse itself. The Elections Department also employs a workforce of 60 temporary poll workers to staff the polling stations. All poll workers undergo two hours of training in poll procedures the week before the election, and were provided a detailed, 41-page procedures manual prepared by the County Elections Office. Many poll workers have served for multiple years, some with decades of experience, and indeed, the Elections Office actively recruits previous poll workers to return for service to maintain a high level of average experience. Additionally, 16 high school students are recruited as apprentice poll workers as part of their senior projects. Each polling station must have a minimum of three poll workers present during polling station hours. Most polling places have four or more poll workers. Each polling station also has a Spanish-speaking worker the entire time the polls are open. Each polling place has an inspector in charge of that site. Poll workers are trained to answer the typical questions raised by voters at the booth. If additional information or guidance is needed the Inspector can telephone the Elections Department office in Colusa.

The mechanics of the election begin in May when the Elections Department notifies the county's cities and special districts of procedures and deadlines for placing items on the ballot. Special districts include cemetery districts, irrigation and reclamation districts, school districts and Yuba Community College District. Not all districts will necessarily have items for the ballot in any given election.

After cities and special district transmit their information to the Elections Department, the Elections Office creates ballots, which vary by precinct. For the 2016 election, 15 separate ballots were used. Ballots vary based on the voter's registered political party as well as their voting precinct boundaries. For example, voters in the City of Colusa, will vote for only one of the two candidates for the Board of Supervisors, depending on the supervisorial district in which the individual voter resides.

The ballot's layout (what it looks like and the order of voting) is partly dictated by the state Elections Code. The ballots are printed by a company in Nebraska and are reviewed and approved by the County Elections Office before the actual ballots are printed and delivered.

The voting machines (used at the polling stations as well as at the courthouse for mailed ballots) are tested by a contractor. The machines were purchased in 2003 with grant monies, and are tested before every election. For the 2016 election, two machines failed testing and were withdrawn.

The device that tabulates all the ballots is a stand-alone computer secured in the Clerk Recorder's office. The computer does not have a network or internet connection as a security measure to prevent potential tampering. That device is also tested prior to the election.

### ***Election day***

The inspected polling stations were plainly marked with signage. Workers assembled at their polling station before the start of polling hours. The polling station on 5<sup>th</sup> Street in Arbuckle opened at the designated time. The station was staffed by five poll workers, including a student worker from Pierce High School. Voting was quiet and orderly with no significant problems noted (the voting machine rejected one ballot; the ballot was retained for a hand count). All questions put to the poll workers were answered quickly with no complications noted.

Voting in Williams was observed during the evening hours. Williams was a consolidated voting station, with one location serving the four Williams-area voting precincts. There were the requisite number of poll workers for each precinct present. Like Arbuckle, voting was orderly with no significant problems noted.

Voting in Colusa was observed during the early evening hours at the polling place at the Colusa City Fire Station. The station was staffed by five poll workers with varying levels of experience, from a high school intern to workers with more than 15 years of experience. During the time the polling place was observed, activity was relatively light and voters were served quickly. Per their training and the election procedures, each poll worker was assigned specific duties, such as “street index clerk,” “roster clerk,” “ballot clerk” and “ballot box clerk.” This created an orderly and smooth process for each voter to identify themselves as a registered voter, obtain a proper ballot, complete, and submit the ballot. Each voter was offered a ballot privacy sleeve so that their voting choices could not be easily observed as their complete ballots were handed back to poll workers for entering into the ballot box and electronic tabulator. One voter, who did not receive the privacy sleeve, later expressed discomfort to a poll worker that her votes could be seen, possibly indicating that the voter did not fully understand the purpose of offering the sleeve. Another voter arriving after 7 p.m. was allowed to vote even though he was not at the proper polling place. This is consistent with procedure – voters are generally not directed to their correct polling place when the polls are about to close to make sure their votes are collected before polls close. However, poll workers did not explain to the voter that the ballot he received might not be exactly the same as in his home precinct, and that therefore he might not have an opportunity to vote for all items for which he was eligible to vote.

Grand Jurors also observed ballot collection and tabulation at the County Courthouse following closure of the various county precincts. Elections officials explained each step of the process, from delivery of ballot boxes from individual precincts, to ongoing tabulation of results as they became available. Results were shared promptly with the public, news media and observers as they became available. While preliminary election results were announced within only hours of precinct closures, the Elections Office explained that vote counting would continue for several days afterward due to the arrival on election day of many mail-in ballots, and receipt of provisional ballots, which require special processing to avoid duplicate or improper voting. Though the workers at both the Courthouse and the polling places were quite busy, their demonstrated behavior throughout the evening was calm, friendly, and professional.

## **FINDINGS**

F1. The County of Colusa Elections Department has a developed plan for holding elections within Colusa County, which served the public well in holding an orderly voting process.

F2. The Elections Office has a thorough, up-to-date manual and process for training poll workers.

F3. The Elections Office actively seeks and recruits experienced poll workers, resulting in a corps of workers at the inspected stations who were knowledgeable in their duties and generally answered questions from voters quickly with no significant noted problems.

F4. A possible weakness was noted in the procedure of asking a voter if they want a privacy sleeve with his or her ballot, rather than simply handing one to the voter with the ballot.

F5. It appears that voters casting provisional ballots may not be fully informed about the consequences of doing so, such as not being able to vote on all issues in their home precincts.

F6. The procedures used to tabulate votes at the County Courthouse, and at the precincts, contain important checks and balances to prevent errors, miscounts, and improper voting. Procedures are in place to minimize the risk of outside tampering, such as maintaining a computer for counting ballots that is not connected to the internet. We find that the Elections Office has exercised due diligence to minimize any opportunity for elections tampering in the vote collection and counting process.

## **RECOMMENDATIONS**

R1. The Grand Jury recommends that the Colusa County Elections Office continue its diligent efforts to staff county voting precincts with well-trained and experienced poll workers, and that future training of workers further emphasize voter privacy and consequences of voting with a provisional or out-of-precinct ballot.

# FINANCIAL HEALTH OF EDUCATION VILLAGE IMPROVING, BUT BUILDING REPAIRS NEEDED

## SUMMARY

The 2016/2017 Colusa County Grand Jury decided to conduct a follow-up investigation of the Education Village to determine the current utilization of the facility and the overall financial impact on the district, based on recommendations and findings of three previous Grand Jury investigations. This Grand Jury finds that significant progress has been made to increase utilization of facilities and revenue from those uses at the Education Village. Flaws from construction and/or design of some education facilities appear to leave them exposed to damage from rain; the Grand Jury recommends prompt repair to minimize further damage.

## BACKGROUND

In 2013, construction was completed on a new community education facility located in Williams. Known as the Education Village, the \$11.5 million facility on 14 acres includes more than 44,000 square feet of building space with 10 classrooms for special education, alternative education, adult transition and preschool services, a multipurpose building with a kitchen and stage, parking, and neighboring fields.<sup>9</sup> The project was funded through state bonds.

Interest by the Grand Jury in the Education Village dates back more than a decade. The 2006-2007 Grand Jury questioned the need for constructing the Education Village. Following continued controversy, the 2013/2014 Grand Jury once again investigated the Colusa County Office of Education (CCOE), which was responsible for administering the Education Village, regarding the financial liabilities and operations of the facility. That Grand Jury found that the CCOE was planning actions that would expose to the county to millions of dollars in liability, including the potential that the county would be forced to repay \$16.9 million in grant funding supplied by the state to build the Education Village. The Grand Jury further found that the Education Village would generate \$257,000 annually in maintenance costs including utilities and insurance that would be prorated to county school districts, who in turn balked at being billed for those costs, saying they had not been consulted properly on the CCOE funding plan. The controversy led to the CCOE announcing it would terminate its responsibility as the Administrative Unit for the County's Special Education Local Planning Area (SELPA). The 2013-14 recommended that the SELPA be restructured and the next Grand Jury monitor administration of the SELPA.

The 2014/2015 Grand Jury issued a follow-up report with additional recommendations, including:

- Urging the Colusa County Superintendent of Schools to continue reorganization of CCOE operations and finances and pursue "all reasonable and feasible options to promote utilization of the Education Village;"

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<sup>9</sup> See <http://architecture4e.com/portfolio/colusa/>, accessed May 2017.

- Urging more cooperation between CCOE and the various school districts in the county with CCOE continuing in its role as administrative unit for the county's Special Education Local Planning Area (SELPA); and
- Encouraging vigilant oversight of the Education Village and CCOE by the CCOE Board of Directors, county school district superintendents, and public.

The 2016/2017 Grand Jury decided to follow up on the previous Grand Jury investigations, with a focus on the following issues:

- Current utilization of the Education Village
- Overall financial health of the Education Village.

## **METHODOLOGY**

The 2016/2017 Grand Jury members interviewed the Colusa County Superintendent of Schools. Members of the Grand Jury toured Education Village classrooms, preschool area, multipurpose room, kitchen, administrative office, and playground area. Follow-up information was gathered from reviewing news articles in the *Williams Pioneer-Review*.<sup>10</sup>

## **DISCUSSION**

At the time of the interview, the Education Village was being used for classes in Adult Education, Special Education for Transitional Students, and Adult Second Language. Education Village also hosts a Community School. A preschool was in the final stages of preparation for opening (and indeed opened on March 2, 2017). There were also plans to partner with Woodland Community College to conduct a Culinary Arts class. A cafeteria known as The Bistro has opened and is open to the public with a goal of generating additional revenue for the Education Village. The Wildlife Fire Academy utilizes the facility as well.

### ***Overall financial health of the Education Village***

Current funding for the Education Village comes from rent from the various departments leasing space, a percentage of revenue from classes offered, and reserve funds available. Solar panels were installed to save energy costs. There is also a greenhouse on site that will be used to grow food for the projected cafeteria.

During the tour of the facility, concerns about the design and construction of the buildings were discussed. According to the Colusa County Superintendent of Schools, there are flaws in the design or construction of the building that, during rain events, allow water to pool outside metal roll-up doors used for disabled access to the classrooms. In turn, this allows water to enter the building. Grand Jurors observed what appeared to be water damage to tile floors and interior walls near the doors. According to the Superintendent, there are plans to repair the water damage and flaws that led to it.

## **FINDINGS**

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<sup>10</sup> <http://williamspioneer.com/article/1050>, <https://williamspioneer.com/article/81300>, <https://williamspioneer.com/article/81060> accessed May 2017.



The Education Village has flaws in the design or construction of the buildings that appear to have caused water damage and more such damage can be expected during wet weather if repairs are not made.  
The classrooms are being utilized, which generates funds needed for the financial health of the facility.

#### **RECOMMENDATIONS**

R1. The Grand Jury recommends the repairs need to be completed to prevent costly damages to the classrooms.

#### **REQUEST FOR RESPONSES**

No requests for responses are needed.

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| Reports issued by the 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 Grand Jury. |
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#### **DISCLAIMER**

This report on the Education Village is issued by the full 2016/2017 Grand Jury, with the exception of one member who is related to an employee or former employee (within the last three years) of the CCOE. This Grand Juror was excluded from all parts of the investigation, including interviews, deliberations and the making and acceptance of this report. This report is based on information obtained from outside sources with none of the information being obtained from the excluded Grand Juror.