

MONO COUNTY

GRAND JURY



Final Report

2001-2002

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PRODUCTION

C.D. Ritter
Cindy Silverman

INTRODUCTION

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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF MONO
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11 IN RE:

12 2001-2002 Grand Jury
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GENERAL ORDER
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16 I certify that the 2001-2002 Mono County Grand Jury Final Report
17 complies with Title Four of the California Penal Code and direct
18 the County Clerk to accept and file the final report as a public
19 document.
20

21 Dated this 29 day of July, 2002.
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24 
25 EDWARD FORSTENZER
26 Presiding Judge of the Superior Court
27
28

THE GRAND JURY
County of Mono
State of California

June 20, 2002

The Honorable Edward Forstenzer
Presiding Judge of the
Mono County Superior Court
P.O. Box 1037
Mammoth Lakes, CA 93546

Dear Judge Forstenzer:

Enclosed is the Final Report of the 2001-02 Mono County Grand Jury.

In reaching the findings and conclusions set forth in the attached Final Report, the grand jury has attempted to be fair, objective and constructive.

The grand jury's mandate could not have been fulfilled without the help of numerous employees and officials of the various County and Town departments. The grand jury would like to thank these persons for their assistance and cooperation.

I personally thank the grand jury members for their hard work and spirit of cooperation. Also, special recognition and thanks go to secretaries Tammy Davis and Ceal Gargan. Their role was important to the process of order and spirit of cooperation.

Finally, although C.D. Ritter's tragic accident prevented her from working most of the year, she was able to complete the year-end functions. During the year her clerical tasks were competently handled by Cindy Silverman from Court Executive Officer Bob Dennis' organization. Thank you, Cindy.

Respectfully,



Cliff Sharp, Foreman
Mono County Grand Jury 2001-02

THE PURPOSE OF A CIVIL GRAND JURY

The primary purpose of a civil grand jury is to serve as an investigatory body watching over county and city governments and special legislative districts. In contrast, criminal grand juries can be convened as needed to investigate specific criminal matters. A civil grand jury initiates investigations and inquiries in order to ensure that government is not only honest, efficient and effective, but also conducted in the best interest of county residents. The duties, powers, responsibilities, qualifications and the selection process of a grand jury are set forth in California Penal Code Section 888 et seq.

The Mono County civil grand jury reviews and evaluates procedures, methods and systems used by county and town departments to determine: (a) whether such systems, procedures and methods comply with the stated objectives of the departments themselves; and (b) if department operations can be made more efficient and effective.

One of the primary incentives for grand jury investigations is citizen complaints regarding perceived problems or issues within the various governmental agencies. In order for the grand jury to be truly effective, the citizens of the county must get involved.

The members of the grand jury are chosen from citizens throughout Mono County. Juror selection is based upon recommendations and a willingness to serve at least a one-year term beginning July 1. The term limit is two consecutive years. Lawfully, the grand jury acts only as an entity. No individual grand juror, acting alone, has any power or authority. Meetings of the grand jury are not open to the public, and jurors are sworn to secrecy during their term. By law, all matters discussed before the grand jury and votes taken are to be kept confidential until the Final Report is compiled and published.

The end result of inquiries and investigations by the grand jury is the Final Report issued at the end of its term. The committee reports published in the Final Report are prepared by each of the standing or special committees. Once approved by committee members, each report is then reviewed, edited and ultimately approved by the entire grand jury. The Final Report must be approved by the presiding judge of the Mono County Superior Court.

GRAND JURORS & ADVISORS

ACTIVE JURORS

Pete Arrants <i>Lee Vining</i>	Dennis Erdman <i>Mammoth Lakes</i>	Cliff Sharp <i>Walker</i>
Frank Axford <i>Coleville</i>	Ceal Gargan <i>Benton</i>	Tim Taylor <i>Mammoth Lakes</i>
Dan Berner <i>Mammoth Lakes</i>	Boyd Lemmon <i>Mammoth Lakes</i>	Sam Walker <i>Mammoth Lakes</i>
Peggie Chew <i>Mammoth Lakes</i>	Jeff Mills <i>Bridgeport</i>	Ken Willingham Jr. <i>June Lake</i>
Tammy Davis <i>Mammoth Lakes</i>	Rick Mitchell <i>Chalfant Valley</i>	Marcy Ziegler <i>Mammoth Lakes</i>
John Elliott <i>Coleville</i>	Joyce Rowan <i>Crowley Lake</i>	

RESIGNED/RECUSED JURORS

Jerry Dunlap <i>Mammoth Lakes</i>	Susan Moss <i>Mammoth Lakes</i>	Walter Rosenthal <i>Mammoth Lakes</i>
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OFFICERS

Foreman Cliff Sharp
Foreman Pro Tem Sam Walker
Secretaries Ceal Gargan & Tammy Davis

ADVISORS

Presiding Judge of the Superior Court Edward Forstenzer
District Attorney George Booth
Court Executive Officer Bob Dennis
County Counsel Marshall Rudolph
Deputy County Counsels Christiana Darlington & Stacey Simon
Administrative Assistants C.D. Ritter & Cindy Silverman

GRAND JURY COMMITTEES

ADMINISTRATION

Rick Mitchell, Chair

Pete Arrants • Dan Berner • John Elliott • Dennis Erdman • Ken Willingham Jr.

AUDIT & FINANCE

Sam Walker, Chair

Pete Arrants • Boyd Lemmon • Jeff Mills • Ken Willingham Jr.

BUILDING, PLANNING & ENVIRONMENT

Pete Arrants, Chair

Dan Berner • Jeff Mills • Rick Mitchell • Timothy Taylor • Sam Walker

EDUCATION

Joyce Rowan, Chair

Dan Berner • John Elliott • Dennis Erdman

EXECUTIVE

Cliff Sharp, Chair

Tammy Davis • Ceal Gargan • Sam Walker

GRAND JURY HANDBOOK

All Jurors

HEALTH & HUMAN SERVICES

Peggie Chew, Chair

Ceal Gargan • Marcy Ziegler.

LAW & JUSTICE

Marcy Ziegler, Chair

Frank Axford • Tammy Davis • Ceal Gargan • Rick Mitchell • Joyce Rowan

MAMMOTH LAKES, TOWN OF

Tammy Davis, Chair

Ken Willingham Jr.

PARKS, RECREATION & PUBLIC WORKS

Timothy Taylor, Chair

Peggie Chew • Boyd Lemmon • Ken Willingham Jr.

CITIZEN COMPLAINTS

One of the grand jury's most important functions is responding to citizen complaints. Any area resident who has knowledge of deficiencies or improprieties in local government -- Mono County, the Town of Mammoth Lakes, or Special Districts -- can file a formal complaint with the grand jury. If the complaint falls within the purview of the grand jury, an investigation will be initiated by one of its standing committees. Results of all committee investigations are presented to the entire grand jury for concurrence. If the complaint is outside the grand jury's purview, it may be forwarded to County Counsel, a Superior Court Judge or the District Attorney.

Any citizen who wants to file a legitimate complaint for consideration by the grand jury should submit a dated and signed letter to: Mono County Grand Jury, P.O. Box 1037, Mammoth Lakes, CA 93546.

This year, the grand jury concluded one investigation held over from last year's grand jury, referred one carry-over complaint to the District Attorney for legal advice, and considered 16 new citizen complaints. Shown below are the complaints received. The results of these investigations can be found in the individual standing committee reports.

#01-01, #01-02, #01-03, #01-04:

These complaints were received from the same complainant, disputing her incarceration and sentencing. Referred to Law and Justice committee.

#01-05:

A letter contending possible unethical procedures taking place in the Mono County Road Department. Referred to Parks, Recreation and Public Works committee.

#01-06:

Request to look into the emergency status of Mono County and what it plans to do in the event of a disaster. Referred to Law and Justice committee.

#01-07:

Carry-over complaint (#00-29) contending Mono County Sheriff's Department improperly handled matter and violated complainant's civil rights. Referred to Law and Justice committee.

#01-08:

Request to investigate appointment to fill a vacancy on the Mammoth Community Water District's board of directors. Referred to Administration committee.

#01-09:

Verbal complaint in regard to the Mono County Arts Council received by a juror was deemed serious enough by the entire grand jury to begin an investigation. Referred to Audit and Finance committee.

#01-10:

Carry-over complaint (#00-12) regarding possible conflict of interest between employee and Southern Mono Healthcare District. Referred to Administration committee.

#01-11:

Complaint alleging unethical behavior by a grand juror. Referred to Superior Court Judge and District Attorney.

#01-12:

Request for an investigation of possible misuse of public funds by the Mammoth Unified School District. Referred to Audit and Finance committee.

#01-13:

Complaint indicating possible cover-up of a Hantavirus case. Referred to Health and Human Services committee.

#01-14:

Request for a review of the contract between Mammoth Hospital and Blue Cross. Referred to Health and Human Services committee.

#01-15:

Inquiry in regard to hiring practices by the Town of Mammoth Lakes. Referred to Audit and Finance committee.

#01-16:

Complaint alleging violation of rights by Mammoth Lakes Police Department with regard to reading of the Miranda rights and arrest procedure. Referred to Law and Justice committee.

#01-17:

Complaint regarding the library system and the Eastern Sierra Unified School District. Referred to Education committee.

#01-18:

Complaint alleging possible conflict of interest within the Mammoth Unified School District's board of trustees. Referred to District Attorney for guidance.

COMMITTEE REPORTS

ADMINISTRATION COMMITTEE

Rick Mitchell, Chair

Pete Arrants • Dan Berner • John Elliott • Dennis Erdman • Ken Willingham Jr.

BACKGROUND

The Administration committee studies the organization, efficiency of operation and any other similar matters that affect county government, town government, and/or special districts, and provides an observer to attend regular and special meetings of the Board of Supervisors who will report to the grand jury all significant transactions.

FINDINGS

1. Committee members attended numerous meetings of the Board of Supervisors. They reported that meetings were lengthy at times, but allowed for the public to comment to the fullest. Public comment was actively sought as a rule. Business was conducted in a most professional manner, and posted agenda times were adhered to completely.

2. At its meetings the Administration committee interviewed the County Administrative Officer; discussed revenue and finance issues at length, explored areas for increased cooperation between the Town of Mammoth Lakes and Mono County; and moved toward development of a county Health and Human Services Agency that would combine the current somewhat fragmented system.

3. Inquiries into a possible conflict of interest in regard to filling a vacancy on the board of directors of the Mammoth Community Water District determined that a written MCWD procedure in place was followed at the time of appointment, and that financial benefit to the existing board members seemed unlikely.

4. The various governmental agencies reviewed need to establish a system whereby cost benefits could be realized from cooperative and expert capital improvement purchasing. Various agencies purchase similar costly items and appear to rely chiefly on in-house advice and expertise. While tailored function is important, greater communication and joint purchasing could realize cost savings.

5. The planning, design and construction oversight for fixed facilities needed now and in the near future appear to be dealt with on an agency-specific basis. With the tremendous sums of capital involved in one-time only projects for the agencies, the sharing of a resource that might include expertise could prove cost efficient.

RECOMMENDATION

As had been recommended by a previous grand jury, the County has developed a new position and hired a Human Services Manager. Providing general personnel oversight and the assigned task of updating the Personnel Policies and Procedures manual should improve employer/employee relations.

AUDIT & FINANCE COMMITTEE

Sam Walker, Chair

Pete Arrants • Boyd Lemmon • Jeff Mills • Ken Willingham Jr.

STATEMENT

The Audit and Finance committee conducted two inquiries this year. The first was the result of two letters of concern regarding the financial operation of the Mono County Arts Council. The second inquiry, which related to the use of bond funds for Mammoth Unified School District's capital improvements, was assigned to an *ad hoc* committee combining members of the Audit and Finance committee and the Education committee. The results of this inquiry are detailed on p. 23, in the Education committee's report.

BACKGROUND

Questions regarding the financial operation and management of the Mono County Arts Council were received in writing and through personal interviews. County Counsel issued an opinion regarding the grand jury's jurisdiction. The allegations were turned over to the District Attorney's office, which conducted interviews and issued a report.

FINDINGS

The Mono County Arts Council contracted for an audit, which was completed June 1, 2002. Committee members conducted interviews and reviewed the two reports. The areas of concern were:

- a) Handling of an employee termination by the director;
- b) Cash handling from events;
- c) Use of Arts Council credit card for personal expenses;
- d) Appropriateness and legality of contracts among the Arts Council, the Executive Director and the Felici Trio;
- e) Methods and form of financial reporting by the staff to its board of directors; and
- f) Sale of artwork and the relationship between the Arts Council and the Executive Director's business, Eastside Gallery.

CONCLUSIONS

1. The committee found no evidence of misappropriation or misuse of funds. There were, however, numerous examples of poor judgment and inexperienced financial management by the Executive Director, as well as financial oversight by the board of directors.

2. As with many volunteer boards, there often does not exist the necessary experience in management. This experience must come from the people charged to operate the organization or from other sources, such as consultants or service providers.

3. The Executive Director indicated he had little experience running an organization such as the Mono County Arts Council, yet the board of directors took no action to fill this void.

4. Knowing what one does not know is an important asset.

RECOMMENDATIONS

1. The Arts Council has a history of mishandling employee relations. It should appoint a committee to become familiar with labor law and employee relations. All organizations need training and knowledge in this area. If this experience does not exist on the board or with the director, then consultants should be considered. Other organizations or governmental entities in Mammoth could be useful here.

2. All financial transactions within the organization, whether issuing checks or depositing cash, should be handled by a third party. Contracting with a bookkeeping service could also be more cost effective than handling these functions in-house.

3. Personal use of Arts Council credit cards should be specifically prohibited. The board of directors, with the help of its financial advisors, ought to develop "Policies and Procedures" for all financial transactions.

4. Employment contracts entered into by the Arts Council need to be reviewed not only for their substance but also for legality. The payment method in the contract with the Executive Director clearly violates IRS regulations.

5. Financial reporting to the board of directors needs to be complete and consistent. These reports were found to have little continuity.

6. Arm's-length transactions and avoiding the appearance of a conflict of interest should be included in "Policies and Procedures."

COMMENDATIONS

At the writing of this report the Executive Director and the board of directors had already started addressing many of the issues. All parties cooperated openly with the committee.

BUILDING, PLANNING & ENVIRONMENT COMMITTEE

Pete Arrants, Chair

Dan Berner • Jeff Mills • Rick Mitchell • Tim Taylor • Sam Walker

BACKGROUND

The Building, Planning and Environment committee received one letter of complaint during this term, passed on from the previous grand jury, regarding the method of handling building permits.

FINDINGS

The complaint was discussed by the entire grand jury. No action was taken because the complaint was received unsigned; therefore there was no one to reply to.

RECOMMENDATIONS

A written complaint must be signed by the person who files the complaint.

EDUCATION COMMITTEE

Joyce Rowan, Chair

Dan Berner • John Elliott • Dennis Erdman

BACKGROUND

The grand jury, in looking into the questions raised, acknowledges that planning and construction of multimillion-dollar capital projects is a complex business. The case of Mammoth Unified School District (MUSD) is further complicated by the myriad state laws, codes and regulations that govern public school construction.

The report that follows is intended to reflect on the design, development and construction process, and to offer comments and suggestions for possible improvement in future projects. It is important for the school district to learn from its experiences and share that knowledge with other public-sector agencies contemplating large capital projects.

The grand jury interviewed more than a dozen people involved in the development and execution of MUSD's Facilities Master Plan. All individuals were candid and forthright in providing information for this report. This report is provided as a learning experience. The grand jury recognizes that the situation is being looked at with 20/20 hindsight. The report is not intended to place blame or cause any individuals to believe their actions were improper or poorly executed. Rather, the focus is on how future projects could be strengthened by changes in approach or emphasis.

Question #1:

Did MUSD's use of proceeds from the 1998 School Bond violate election law?

Answer:

No.

Question #2:

Was MUSD's use of proceeds from the 1998 School Bond election properly managed?

Discussion:

In October 1997, a group known as the District Steering Committee was formed by MUSD to review and comment on the capital facility planning and programs needed within MUSD to meet the district's long-term goals. The goal of the steering committee meetings was to be "a report prepared by the team to the Board of Education that consists of a review and recommendation for approval of the Facilities Master Plan." The plan was to "provide a financing plan that delivers resources in an efficient manner to ensure its successful implementation, and establish a framework and foundation for future facilities improvements."

Steering Committee Meetings - I

The committee consisted of public members, representatives from each school in the district and members of the MUSD board of trustees and administrative staff. Through the fall and winter of 1997-98, this group met to determine the needs of the district from a capital project planning perspective and to develop a Facilities Master Plan.

Oct. 22, 1997: The steering committee reviewed numerous handouts and reports provided by staff and, after reflecting on California Basic Educational Data System projections and community construction, agreed that the district should fall back into 3% projected growth as in past years.

Oct. 29, 1997: The meeting summary prepared by district staff states, "Budget needs are approximately \$18.4 million. State funding through applications would total \$5.15 million. Local funding through bond would require approximately \$14.0 million."

NTD Architects Inc. also provided a summary of the Oct. 29 meeting results: "NTD reviewed the plan concepts being considered, and comments were made by the committee. The concepts are based on two major principles that were validated by the committee -- the strong desire to have all grade levels and the district office on the same contiguous site, and cost efficiency." The NTD summary notes that with respect to the district offices, "No objections to on-site with other three facilities. . . proximity to students very desirable by Peggy [Wozniak]. . . ." The results of this meeting seem to indicate the district offices would be located in the building that currently houses the middle school, once the new middle school was finished.

Nov. 12, 1997: The project list was first on the agenda. It showed the timing for future projects as follows: December 1997, board approval of Facilities Master Plan; April 1998, local bond; Fall 1999, new Sierra High School; Fall 2000-05, high school rehab/modification; Fall 2000-01, elementary school rehab; Fall 2001, new middle school; Fall 2001-02, district maintenance/operation/transportation; and Fall 2008, new elementary school.

The goal of the meeting was to establish a strategy to prioritize, finance and build these projects in a timely manner. Note that this list did not mention the district administrative office.

The meeting notes from NTD Architects contain a budget summary showing a total need of \$18.5 million, state funding of \$5.15 million and a bond capacity of \$14.0 million.

Dec. 3, 1997: The committee discussed the Facilities Master Plan's proposed project list, which described the location of Sierra High School on the South Gateway property site, across from the high school, east of the town offices. Under "District Operations," the listing read, "Upon completion of middle school, use some of the existing middle school relocatable classrooms as district, maintenance and technology offices."

The project list called for the timing of the new middle school to be fall 2001-02 at a budget of \$8 million. New district/maintenance/transportation was listed for the same time at \$750,000. The new Sierra High School was scheduled for fall 1999 with a budget of \$710,000.

Bond Election

The steering committee meetings resulted in a proposal for the district to go to the voters for support for a bond measure (Measure S) that would finance the needed improvements described in the Facilities Master Plan. The MUSD board of trustees proposed a ballot initiative for a special election April 14, 1998, asking the local electorate to approve an extension of the present school tax on property within the district. The extension added 12 years, and through passage of Measure S, the district could borrow approximately \$14.1 million needed for new capital projects and improvements to existing schools. The additional borrowing was to be augmented by funds from various state of California sources. According to the argument in favor of the initiative in the voter information pamphlet, the matching funds from the state would be approximately \$1.3 million.

A campaign committee was formed, and MUSD hired a consulting firm experienced in helping districts "sell" the bond measure to the community. Throughout the spring of 1998, the committee met and made phone calls to seek support for the bond election. The result of the election was approval from 88% of the voters (66% was required).

As a result of strong endorsement from voters, the district moved forward with the planning process to design the needed facilities. NTD Architects was hired to prepare plans for the new middle school. A number of improvement projects for existing facilities was also approved, and NTD was to provide plans and specifications for these projects as well.

South Gateway Site

The school district entered into negotiations to acquire land across from the high school, known as the South Gateway site, from the Mammoth Lakes Foundation. This site had been identified as a possible location for Sierra High School. On May 19, 1999, the 19-acre parcel was purchased, and approximately three acres was resold to the Mono County Office of Education. The MCOE was also planning a new classroom facility for county students and to provide space for administrative staff. NTD Architects was engaged by the County to design this facility.

Steering Committee Meetings - II

July 22, 1998: On the agenda for this meeting was "Location of District Office." Notes from the meeting state, "Middle school staff and architect are on schedule with design of plans. . . . A decision was made to locate the district office within the Sierra High School for the following reasons: a) The superintendent is the principal of the school; b) The high school staff needs administrative and clerical support that it does not now have; c) Not locating the district office in the existing middle school portables allows more classroom space for growth at both the comprehensive high school and the middle school; and d) Cost effectiveness.

From these meeting notes, it appears that the decision to combine the Sierra High School and the district office into one facility was made after the bond election.

Oct. 1, 1998: The committee was given updates on the various projects. The plans for middle school were reviewed, and it was stated that classroom design was next on the architect's schedule. The report on Sierra High School focused on the land acquisition and funding issues with the state. The meeting notes also stated, "Plans for the high school [Sierra High School] and the district office are continuing to be discussed. There is no final design as yet."

Nov. 19, 1998: The architect presented preliminary plans for the middle school and took comments from the committee. Discussion of Sierra High School and the district office was directed primarily toward the land transaction and preliminary site work. The meeting summary noted, "The plans for the combined Sierra High School and district office building need to be completed as soon as possible. This will be placed as a priority."

Jan. 11, 1999: The committee reviewed the plans, schedule and budget for various projects on the Facilities Master Plan. The budget handout projected the middle school costs at \$8 million. Sierra High School and district office were shown as different line items, \$744,000 and \$700,000, respectively. The spatial programming handout showed the total building area for the middle school to be 56,620 sq. ft. With a budget of \$8 million, cost would equal \$141/sq. ft., according to NTD Architects.

April 5, 1999: During this meeting the architect presented schematic plans for Sierra High School and the middle school and provided a program and schedule for the projects. There was considerable discussion on possible future locations for the football field, as the middle school will occupy the present stadium site.

Oct. 28, 1999: The architect gave updates on middle school design progress, which was largely complete, and Sierra High School/District Office design and schedule. The *musdnews* contained the following update on both facilities:

"The plans and architectural drawings for the District Office and Sierra High School (MUSD's continuation high school) are in their final phase of completion and will be submitted to the Division of the State Architect for approval. This process takes several months, but building should begin in the spring once the snow is gone.

"The design phase of the middle school is nearly complete. As with Sierra High School, the next step is to complete the architectural drawings for submission to the state next year."

Project Budget Revisions

Aug. 31, 2000: At the Facility Committee meeting, the steering committee was given a new budget handout that showed construction cost estimates for all projects:

Sierra High School	
Construction cost estimate	\$2,128,482
Site work bid overage	66,000
Escalation to midpoint of construction	87,779
TOTAL CONSTRUCTION COSTS	2,282,261
Soft costs (22%)	502,097
TOTAL PROJECT COST	2,784,358
Mammoth Middle School	
Construction cost estimate	9,787,636
Soft costs (22%)	2,153,279
TOTAL PROJECT COST	11,940,915

This was the first time the committee had been told that both project budgets needed significant revision from the figures provided by NTD Architects in 1999. The schematic plans for the middle school also showed a change in square footage: the school was now about 40,000 sq. ft. The revised cost was \$298/sq. ft., double the earlier budget figure. A budget worksheet handed out showed that combined funding sources would total \$21,900,960, about \$250,000 more than the combined Facilities Master Plan project total. Among these funding sources was an estimated \$6,003,960 from the state's Office of Public School Construction.

A budget and schedule worksheet dated November 2000 showed the revised figures mentioned in the previous paragraph. The middle school schedule showed bid April 2001 and completion September 2002. Sierra High School/District Office was to bid January 2001, with completion December 2001. The bids submitted in June 2000 were rejected as too high. The NTD Architects estimated construction cost at \$2,282,261. In January 1999, the total for the combined facility was \$1,444,000. By November 2000, the estimated combined cost had risen by \$832,261, a 58% increase from the original estimate.

Sierra High School/District Office

On June 30, 2000, only one bid was submitted for Sierra High School/District Office in the amount of \$2,932,700, well in excess of NTD Architects' cost estimate. The difference between the estimate and the bid was \$650,439, a 28% increase. The district rejected the bid, and decided to act jointly with the Mono County Office of Education to proceed with site preparation for both buildings. A site preparation contract was issued to Ledcor Construction for \$754,729. MUSD and the Mono County Office of Education were

to share the cost of site preparation. The architect was instructed to look for ways to reduce costs of Sierra High School/District Office and provide a revised set of plans for rebidding. Revised bids were received Feb. 28, 2001. The contractor selected was Broward Construction, who was also the successful bidder for the Mono County Office of Education facility adjacent to the Sierra High School/District Office site. The contract signed by MUSD with Broward Construction on March 5, 2001, called for the facility to be delivered at a fixed price of \$2,084,000. The completion date agreed upon was Jan. 31, 2002.

Construction of Sierra High School/District Office proceeded throughout 2001 and into 2002. The district moved into the facilities March 1, 2002. MUSD reported the "cost to date" for the project as of March 2002 as \$2,477,271, excluding cost of the land. This figure includes \$2,107,751 to Broward Construction and \$369,520 to Ledcor. Occupancy of Sierra High School/District Office preceded occupancy of the new middle school by at least a year. The size of the building is 5,000 sq. ft., and the cost was \$495/sq. ft. Current enrollment of Sierra High School is 29 students.

Mammoth Middle School

The architectural plans for the middle school were approved Aug. 1, 2001, by the Department of State Architect. The project was advertised, and bids for the middle school were received Sept. 18, 2001. All bids exceeded the estimate of cost prepared by NTD Architects. The lowest bid was \$13,882,000, which was \$4,094,364 more than the architect's cost estimate of \$9,787,636 in November 2000. The lowest bid exceeded the architect's cost estimate by 42%. After due consideration, the board of trustees rejected all bids Oct. 1, 2001, and sent the project back to staff and architect for further analysis and recommendations.

In July 2001, Superintendent Peggy Wozniak reported to the steering committee that a problem existed with the funds expected from the state's Office of Public School Construction. The \$6 million would not be forthcoming because state funds were tied up in a battle with the Los Angeles Unified School District. This would mean a shortfall on the order of \$2 million to \$3 million in funds to build the middle school. Furthermore, there was no money to continue with other projects on the Facilities Master Plan list. The district was evaluating several "work around" plans to see what could be done to get the project moving once more.

Throughout fall and early winter 1991, the superintendent met with numerous parties to resolve the funding shortfall. One fruitful solution emerged, a lease/leaseback arrangement with a development company that would work with the district to deliver the project and provide funding for the shortfall if needed. The developer, Regent Development Partners LLC, agreed to act as MUSD's agent in securing a contractor and having the facility built. The district entered into a contract with Regent for a construction budget of \$11,751,155, a figure arrived at after the developer reviewed the plans and recommended areas where costs could be saved. The district, developer and architect presumably agreed on these changes, which had been incorporated into the contract's Approved Plans and Specifications. The board of trustees approved the contract with Regent Feb. 25, 2002. The contract calls for completion of the middle school by June 30, 2003.

Football Field Relocation

During summer 2001, MUSD decided to seek a solution for relocating the football field, as it would become necessary whenever middle school construction began. The best location was determined to be northeast of its original location, behind the play fields of the elementary school. Work commenced on this project in July 2001. The architect for the football field relocation was NTD, and the contractor was K&H Smith, who submitted a bid of \$564,579. Mammoth Mountain provided a significant contribution in terms of earthwork, valued at more than \$200,000. Completion of the football field is scheduled for summer 2002. The steering committee never discussed the football field relocation work.

CONCLUSIONS

1. The funds spent by MUSD on construction of Sierra High School/District Office appear to fall within the scope of items listed on the ballot measure submitted to voters April 14, 1998. Although the measure does not specifically state that MUSD was planning to build a District Office, the classrooms provided at Sierra High School were clearly part of the description listed in the text of the measure. The actions of the district and the logic of locating the superintendent, who acts as principal of Sierra High School, in the same structure are reasonable.
2. The documents reviewed show that the decision to combine Sierra High School and the District Office was based on sound reasoning. It appears, however, that this change in scope of the project caused a major impact on the budget.
 - a. Construction on Sierra High School/District Office began even though costs for the project had climbed significantly from the original budget. It appears that either little effort was made to bring the costs back into line, or the effort was ineffective.
 - b. Splitting up the earthwork and building construction did not reduce overall costs. There was no formal value engineering review of the project during design process that would have identified the areas where costs could have been reduced.
 - c. The project was an award-winning design. Even taking into account a difficult site, the cost for building construction appears very high.
 - d. The final cost of the project on a dollar-per-square-foot basis is higher than it needed to be for the intended use.
3. The community was justified in its unhappiness concerning the timeliness of the middle school construction. A review of the records revealed that MUSD gave high priority to Sierra High School/District Office. The architect then gave it high priority, and the design was finished ahead of the middle school.
 - a. Part of the reason for the shift of priority was the overcrowded conditions of Sierra High School, which had been moved into a portable office on the MHS campus.
 - b. It should be noted that the middle school is a larger project and involved more staff review and comment time than Sierra High School/District Office. If MUSD had set the middle school as the highest priority, given the fact that it impacts significantly more students, there would not have been community discontent. Community-wide support for the new middle school is the reason the bond issue passed with such a wide margin.
 - c. The district did not communicate adequately to the public the decisions and reasons for putting Sierra High School/District Office first place in line.

4. The architect was working on multiple projects for MUSD. In addition to Sierra High School/District Office, NTD was working on modernization details for MHS, portable classrooms for the elementary school, relocation of the football field, design of the middle school and a master plan for the entire campus. NTD was also architect for the Mono County Office of Education and preparing plans for that facility on the South Gateway site. It is possible that handling all these projects at once became a contributing factor in the schedule slippage of the middle school project.

5. Construction of the new football field proceeded under pressure to clear the site for the anticipated start of construction for the middle school.

- a. The school board members did not have a clear idea of the overall project costs for this facility.
- b. There was pressure from parents and staff to continue the football program uninterrupted, which necessitated moving forward quickly with construction.
- c. Interviews with the board of trustees reveal that there was little discussion about alternatives to the field relocation, and a total project cost estimate for field relocation was never presented to the board.

FINDINGS

1. Construction of a new school in a relatively small district does not happen very often. MUSD does not employ a professional project manager to oversee the various projects listed in the Facilities Master Plan.

2. The budget summary of all Facilities Master Plan projects listed through 2006 totals well over \$20 million. It is unrealistic to expect existing district staff to have sufficient time in their daily schedules, or expertise in design, contract law and construction, to keep track of capital projects of this order of magnitude.

3. Overseeing this level of design and construction takes one or more full-time project management professional(s) with experience in the work being done.

RECOMMENDATIONS

1. The district should consider taking immediate action to correct this situation and secure professional construction management services for current and future capital projects.

2. Larger districts have on-staff project management professionals, and MUSD should consider contracting these services from another district or from the private sector.

3. A project manager should have no fiduciary interest in the project other than that of the district.

FINDINGS

1. A number of other public agencies in Mammoth Lakes and Mono County are poised to engage in major expansion of their facilities. They will be spending the public's money.

2. Value engineering of public projects can yield valuable cost savings when exercised at the correct point during development of plans and specifications. Normally, a formal value engineering analysis takes place when a project is at the 10% to 20% design point. This is prior to final decisions on elements such as the structural system, HVAC system, exterior cladding, and other individual building components that make up the majority of the project cost.

3. It does not appear that MUSD had a formal value engineering (VE) review done on the projects designed by NTD. Architects sometimes tell their clients that they perform ongoing value engineering during the design phase of the project. While this may be true, a formal VE review brings construction, maintenance and operations people to the design table where they look for the best "life cycle" cost for various components of the job. Any VE review that does not involve these participants is not a thorough VE review.

4. Design/build contracts are becoming more prevalent in the public sector today. One of the reasons that design/build has shown positive results is that builders and architects work as a team from the very beginning. This assures that the building design will not only meet the owner's requirements, but that constructability and material selection are considered from the outset.

RECOMMENDATIONS

1. In order for the public to get good value for the money spent, it will be necessary for these agencies to have effective capital project management measures. These include knowledgeable design professionals to prepare the plans, peer review of the plans, programs to include community input on the project, sound financial mechanisms, construction management experts, and experienced project managers who can keep plans on track.

2. Not to be overlooked is the importance of thorough front-end environmental work on the projects and proper follow-through on mitigation measures and other areas identified in the environmental review process. These agencies should begin planning as early as possible. They must allow sufficient time in the design stage for thorough review and feedback. Cutting time in the design portion of the project schedule is false economy.

3. The public agencies contemplating major capital projects should seek to cooperate in constructing joint facilities wherever possible. Larger projects generally enjoy an economy of scale that will lower overall cost per square foot.

4. High school and college development could possibly serve other public purposes such as recreation, performing arts, community meetings and library functions.

5. Mammoth Lakes needs to consider all future facilities from the standpoint of serving both local and visitor needs without duplication of facilities.

COMMENDATIONS

1. The Mammoth Unified School District is commended for utilizing a steering committee in development of its Facilities Master Plan. The district held a number of community workshops to give the public opportunity to comment on the proposed projects. Other public agencies ought to keep the public fully informed as their projects move forward.

2. The district is also commended for its efforts to secure the best possible rating for the bonds. This resulted in lower financing costs and allowed more money to be spent on facilities.

FINDINGS

1. Public agencies need master plans to help in charting their capital facility needs.
2. Master plan documents need periodic review and updating.
3. For school districts, the census of students is one of the key data points in determining future facility need or current expansion requirements.
4. The initial student population projections used in developing the draft Facilities Master Plan (3% growth) are not proving to be accurate. The district's latest study on developer impact fees shows a current projection closer to a 1% growth rate for the next decade. Although the difference may seem small, the error compounded over a number of years leads to false results and inaccurate conclusions.
5. In the case of the MUSD Facilities Master Plan, a formal master plan document was never published after the series of meetings of the steering committee.
6. The information developed during the steering committee meetings remains in the form of meeting notes and exhibits prepared by NTD Architects.
7. Public agencies should pay close attention to project budgets in approval of capital projects. There does not appear to be a depth of understanding among the members of the MUSD board concerning the growth and upward movement of estimated project cost during the design development stage and later the bid-and-award stage of its projects.

RECOMMENDATIONS

1. The board of trustees is advised to revisit the underlying assumptions used in developing the Facilities Master Plan from time to time to be sure the district stays on track.

2. The district's new superintendent will need to cull from steering committee meeting documents and discussions with the board of trustees the future plans for MUSD.

3. A final Facilities Master Plan document, reviewed and approved by the board, would be much simpler and more definitive.

4. The district is advised to assemble the disparate reports from the steering committee, planning consultants, financial experts, demographic studies and curriculum needs into a comprehensive Facilities Master Plan that will serve as the district's guiding document for future capital and project planning.

5. Each project should be evaluated in comparison to the total project list and against the engineer's or architect's estimate for the project.

6. When costs rise, the reasons for the rise need to be clearly understood, and alternatives for reducing costs ought to be discussed. The final cost of a completed project should not come as a surprise and should not exceed the initial budget without good reason and adequate explanation.

EXECUTIVE COMMITTEE

Cliff Sharp, Chair
Tammy Davis • Ceal Gargan • Sam Walker

BACKGROUND

The Executive committee conducted numerous discussions during this term and compiled some recommendations for the next grand jury.

FINDINGS

No findings.

RECOMMENDATIONS

1. Mono County should consider implementation of technology and networking throughout its offices.
2. Mono County should provide initial and follow-up training on its greatest assets: each and every employee.
3. Interviewing the new Health and Human Services administrator should be a priority, as well as reviewing administrative policies and department policies.
4. The incoming grand jury should retain as many hold-over jurors as possible from the outgoing grand jury and send them to the California Grand Jurors Association training.
5. The incoming grand jury should form *ad hoc* committees based on geographic location.
6. The incoming grand jury should review the Little Hoover Commission Report on special districts. The report is available at www.lhc.ca.gov under the title "Special Districts: Relics of the Past or Resources for the Future?"
7. The incoming grand jury should review the Sacramento County Grand Jury Report at www.sacgrandjury.org

HEALTH & HUMAN SERVICES COMMITTEE

Peggie Chew, Chair
Ceal Gargan • Marcy Ziegler

BACKGROUND

The Health and Human Services committee received two letters of complaint during this term:

1. The first letter of complaint (#01-13) requested an investigation of a Hantavirus case alleged to have happened at a hotel in Lee Vining. The letter indicated a possible cover-up in what could be a public health issue, as the owners were allegedly friends with Dr. Jack Bertman, the Mono County Health Officer.

2. The second letter of complaint (#01-14) requested a review of the contract between Mammoth Hospital and Blue Cross, as well as the hospital's contracts with various local physicians and its billing and collection practices when billing patients on behalf of those physicians.

FINDINGS

1. The investigation revealed that there has never been a case of Hantavirus at the hotel in question. The committee interviewed Dr. Bertman at length and spoke to members of the Mono County Health Department, who confirmed this statement.

2. The information given to Blue Cross patients, "Clues About Blues," explained the billing policies of both Mammoth Hospital and Blue Cross. Although the guide was designed to clarify the billing and claims by the hospital, it was very confusing.

The committee interviewed CEO Gary Myers and CFO Jim Smith in the presence of David Baumwohl, the hospital's attorney. As a result of this meeting, the following explanation was given about billing practices: Mammoth Hospital has a contract with some physicians, who are essentially employees of the hospital. Any professional services these physicians provide are billed by the hospital. Because the hospital bills Blue Cross, the form required for claims is a "Facility Hospital Contract Form," as the services are considered performed at a hospital facility. It is this form that makes the difference in the member's rate.

all physicians who work at Mammoth Hospital are under contract. These are considered independent and do their own billing.

RECOMMENDATIONS

Upon recommendation by the Health and Human Services committee, CEO Myers rewrote an information sheet clarifying billing and Blue Cross claims.

LAW & JUSTICE COMMITTEE

Marcy Ziegler, Chair

Frank Axford • Tammy Davis • Ceal Gargan • Rick Mitchell • Joyce Rowan

BACKGROUND

The Law and Justice committee received and investigated three letters of complaint during this term. Upon completion of these investigations, as well as several meetings and facility visits with law enforcement officials, this committee is compelled to make the following statement: In this committee's opinion there still remains ongoing dissension at the administrative level between the Mammoth Lakes Police Department and the Mono County Sheriff's Department.

Mono County law enforcement agencies should continue to strive for mutual cooperation. Furthermore, they should focus on their common mission rather than their differences. Department officials should work together on a collaborative basis, putting the needs of the citizens of Mono County and the town of Mammoth Lakes first, making sure that their staffs always have clear communication and understanding of expectations in performing their duties.

It is apparent that lack of a centralized dispatch is a continuing source of irritation for the Mono County Sheriff's Department and the Mammoth Lakes Police Department, fire departments and Emergency Medical Services. There should be a continued effort by all agencies to resolve this issue.

CITIZEN COMPLAINTS

COMPLAINTS #01-01, 01-02, 01-03:

- a. Complaints disputed complainant's incarceration and sentencing.
- b. A report alleged that Mono County Sheriff's Department used unauthorized personnel to supervise inmates.

FINDINGS:

- a. Complaint was not properly within the jurisdiction of grand jury.
- b. The jail incident was reviewed with the Sheriff's Department. The supervising person in question is, in fact, authorized.

RECOMMENDATIONS:

- a. Complainant was advised to seek legal counsel.
- b. None

2. COMPLAINT # 01-07: Complaint concerned a search of property in Crowley Lake by a Mono County sheriff's deputy.

FINDINGS: After meeting with the Sheriff's Department and reviewing the incident, it was found that the matter was resolved to the satisfaction of all parties.

RECOMMENDATION: None

3. **COMPLAINT #01-16:** Complainant alleged violations of rights by Mammoth Lakes Police Department with regard to reading of Miranda rights and arresting procedures.

FINDINGS: Upon meeting with the MLPD and reviewing the incident report, it was determined that all procedures were adhered to in proper order.

RECOMMENDATIONS: None

LAW ENFORCEMENT FACILITIES VISITATION

The Law and Justice committee conducted several visits to local law enforcement facilities:

Oct. 17, 2001: Meeting with Sheriff Dan Paranick at the Mono County Sheriff's Department.

March 20, 2002: Meeting with Chief Mike Donnelly at the Mammoth Lakes Police Department and a tour of the office and detention facility. It was clear that additional space is desperately needed for all operations, including processing, storage, holding cells and lockers. A new facility is planned for the future.

April 17, 2002: Tour of office and detention facility at the Mono County Sheriff's Department in Bridgeport. At this time the facility has adequate space for all operations, but within the next 10 years there will be a need for expansion. It was noted that an additional food service worker is needed.

COMMENDATION

The Law and Justice committee expresses its gratitude to the Mono County Sheriff's Department and the Mammoth Lakes Police Department for their prompt and efficient responses to all inquiries.

TOWN OF MAMMOTH LAKES COMMITTEE

Tammy Davis, Chair
Ken Willingham Jr.

STATEMENT

The Town of Mammoth Lakes committee received no letters of complaint during this term. The Town's financial report was reviewed by three jurors.

FINDINGS

No findings.

RECOMMENDATIONS

No recommendations.

PARKS, RECREATION & PUBLIC WORKS COMMITTEE

Timothy Taylor, Chair
Peggie Chew • Boyd Lemmon • Ken Willingham Jr.

BACKGROUND

The Parks, Recreation and Public Works committee received a single formal written letter of complaint (#01-05) alleging unethical hiring practices within the Mono County Public Works Department.

FINDINGS

Upon investigation by the grand jury, all allegations set forth in the letter of complaint were withdrawn by the complainant. No further action was taken.

RECOMMENDATIONS

No recommendations.

