WHO'S IN CHARGE HERE?

Chester Public Utility District Report

EXECUTIVE SUMMARY:

The Chester Public Utility District (CPUD) is a public agency created to provide reliable, high quality, cost-effective fire protection, emergency service, water, sewer and street lighting to customers in Chester. The CPUD is a governing body established to serve the community.

"Government is a trust, and the officers of government are the trustees; and both the trust and the trustees are created for the benefit of the people," (Henry Clay, 1829).

The Board of Directors for the CPUD either forgot or never understood that their job is to serve the community and that they are ultimately responsible for the proper conduct and oversight of the District. The Board of Directors of the CPUD has failed miserably in their jobs.

Fortunately, the Director that was selected to manage the District on an interim basis after the Fire Chief/Manager retired had some insight regarding what issues needed immediate attention and jumped in with both feet. This Director demonstrated a keen understanding of his role, identifying where the 'bleeding' was coming from and proceeded to stop it. Without pointing fingers, he assessed the situation, identified the financial and employee relations problems and proposed reasonable solutions.

This Grand Jury also observed the staff of the District, both on the water side and the fire side, from the clerical staff to the mid-level and front line employees, to be highly competent and dedicated to their jobs. The behavior of the former Fire Chief/Manager and the Board put the staff in a no-win situation. The former Fire Chief/Manager used intimidation to prevent the staff from blowing the whistle on him and the Board's stubborn confidence in the Fire Chief/Manager left the staff without recourse. Only when the public demonstrated an interest in the activities of the Fire Chief/Manager did the Board 'belly up to the bar' and assume some of their governance responsibilities.

BACKGROUND:

On August 17, 2009, the Plumas Local Agency Formation Commission (LAFCo) approved the consolidation of the Chester Fire Protection District (CFPD) and the Chester Public Utilities District. Per Resolution #2009-02, the resulting district would be called the Chester Public Utility District with a governing board of seven, three from the previous CFPD, three from the previous CPUD and one member chosen at random by the Commission from the remaining Directors wishing to serve.

For a time prior to consolidation, the CPUD did not have anyone in the General Manager position. The incumbent CFPD Fire Chief took over the functions of General Manager of the CPUD by contract. The contract amount was $72,000 per year to manage the Water District with the provision for cancellation upon thirty days' notice by either party.

LAFCo recruited the services of a consultant who performed a financial feasibility analysis to determine if the consolidation would serve the best interest of the community. The consultant looked at all line item expenditures of the CFPD and the CPUD annual budgets. If the line item costs were not expected to change, they were not addressed in his report. The consultant spoke with the Plumas LAFCo Executive Officer and the CFPD Fire Chief/CPUD General Manager. The consultant reviewed pertinent sections of the California Government Code and the Districts' documents including their annual budgets, annual audits, personnel rules, the California Public Employees Retirement System (CalPERS) Actuarial Valuation Reports and other District documents provided by District staff.

The consultant determined that net public service costs under the consolidation proposal were likely to be less than or substantially similar to the existing cost of public services (see Attachment A). The consultant estimated that the cost reduction for the two Districts would be $22,630 per year.

At the December 14, 2010 Board meeting, the Board unanimously approved borrowing money from the Sewer District to pay for a new ambulance for the Fire District at 1.5% interest.

The Fire Chief/Manager first announced his retirement during a closed session of the Board at the November 2011 meeting. The Board reported that the action taken during closed session was to reduce the salary of the Fire Chief/Manager with no mention of the Fire Chief/Manager's retirement. CalPERS e-mailed the District on 12/6/2011 notifying the District that the Fire Chief/Manager had retired as of 11/19/2011 and requested verification of his pay rate and special compensation.

At the June 25, 2012 Board meeting, three (3) years post-consolidation, a group of ten (10) citizens submitted to the Board notices of intent to recall all five Board Directors. The identical notices cited improper fiscal management and the Board's lack of independence from the Manager. The Directors were also accused of failing to protect the ratepayers, taxpayers and employees of the District. During the closed session, the Fire Chief/Manager again submitted his intent to retire. His letter of intent noted that he would stay on until a suitable replacement could be found. This was the first Board meeting where the agenda specified rules for public comment. This was also the first meeting in many years which saw notable public attendance.

Public comment at Board meetings from June, 2012 through March, 2013, among other issues, involved questioning the Board about finances and missing equipment from the Fire Department. Specifically, there were direct questions regarding;

- why the Board was not actively investigating public concern about personal use of District equipment seen at the Fire Chief/Manager's Seneca gold mine

- where in the financial statements did it show that the Fire Department was repaying the loan from Sanitation for the ambulance and

- where in the financials was revenue information regarding the "Mendo-Lassen" contract, a contract which provided for the District to manage, schedule and direct firefighters from outside our District during times of high fire activity.

The Board Chairman submitted his letter of resignation at the January 8, 2013 meeting. Another long-standing Director later submitted his letter of resignation effective January 18, 2013. Neither of the Directors listed their reason for resigning. Both Directors' terms of office were to expire in December of 2015. The Director who assumed the Chair position resigned from the Board at the March, 2013 Board meeting. His term was set to expire in December of 2013.
After an appropriate recruitment, the Board appointed replacements for the two Directors who resigned first. The newly sworn Directors will sit on the Board completing their predecessors' terms, sitting until December of 2015. As of the writing of this report, there remains one Directorship to fill.

APPROACH:

The Grand Jury decided to look into the CPUD after receiving a letter from citizens concerned about the questionable activities of the Fire Chief/Manager and the lack of oversight by the Board of the CPUD. The letter of complaint contained a myriad of issues, some involving possible illegal and unprofessional activity on the part of the Fire Chief/Manager and some speaking to Board behavior. After reviewing finances and procedures and interviewing employees and contractors of the District, it became apparent that District funds and equipment were possibly being used inappropriately and even illegally. Given this possibility, the Grand Jury chose to focus on the effectiveness of the Board of Directors and subsequently handed off any and all issues relating to possible criminal activities to the Plumas County District Attorney.
The Grand Jury interviewed each of the five Board members (sitting at the time we began our investigation) and others who were either closely involved in the day-to-day operations of the District or who had a support role with the District such as the accountant and Clerk of the Board. We also toured the new facility at 251 Chester Airport Road as well as water wells #4 and #5 in Chester.

Several (between two and six) Grand Jurors attended five Board meetings to observe the Board in action and the interactions between the individual Board members and between the Board and the public in attendance. It should be noted that since Chester is a very small, close-knit community Grand Jury attendance at these meetings was recognized immediately. The Grand Jury evaluated Board and public behavior keeping in mind that people may normally be, without our presence, more animated or possibly less animated. We made every effort to appraise situations based upon the observations and not on the possibilities.

The Grand Jury requested from the District copies of the following documents:

- District By-Laws and Rules
- CPUD Board meeting agenda and minutes for the period from July, 2008 through March, 2013
- District financials for the period from July, 2008 through March, 2013
- District Rules of Order
- Consolidation documents
- Womack Construction contract for Well #5
- Olah Construction contract for Well #5
- Cooperative Fire Protection Agreement with U.S. Forest Service, Lassen National Forest for the term 4/13/2011 through 12/31/2016
- The check/voucher register for the period 1/1/2010 through 1/31/2013
- Fire Chief/Manager payroll statements for the period 1/1/2009 through 1/31/2012
- Financial audit reports for fiscal year ending 2010, 2011 and 2012
- District budgets for fiscal year ending 2011 and 2012
- Copies of communications from/to CalPERS regarding the Fire Chief/Manager's retirement

It should be noted that, of the above requested items, the District provided everything except a copy of By-Laws or Rules and a copy of rules of order.

The Board Clerk noted that all the electronic copies of the Board minutes were somehow '*erased*' after the Fire Chief/Manager was given access to the computer where they were kept. The Clerk was, however, able to provide the Grand Jury with copies of the original minutes as they were submitted for Board approval.

The Grand Jury reviewed the consolidation documents from LAFCo and the consolidation Financial Feasibility Analysis and Report prepared by Sinclair & Associates.

DISCUSSION:

District Consolidation

Time constraints prevented this Grand Jury from analyzing all the components used to determine if the consolidation was beneficial for the residents of the District. We therefore are unable to establish the true benefit of merging the two districts (if a benefit exists). The Grand Jury did determine, however, that on the surface, merging the management roles of Fire Chief and Water District General Manager seemed to be at first a reasonable arrangement, reducing the payroll of the consolidated entity and avoiding the expense of recruiting a replacement for the water side General Manager.

LAFCo took what this Grand Jury believes to be a logical approach to determining if combining two different services would meet the needs of the public. The fact that the CFPD Fire Chief also managed the CPUD at the time LAFCo was researching the project may or may not have been significant. The Grand Jury was unable to spend time confirming the numbers provided by the districts but feel that LAFCo might have presented a better

evaluation of possible benefit to the public if the data used would have come independently from each district, not from one person, the Fire Chief. Given that hindsight is 20/20, the Grand Jury believes that whether or not the public benefited financially from the consolidation, *the public was not well served* by allowing the Fire Chief to manage both the CFPD and the CPUD.

Who's In Charge?

The Board of Directors for the Chester Public Utilities District, as a governing unit, does not fully understand its governance responsibility. Four of the five Directors described their role, strictly defined and simply as "consent and advise," emphasizing that they do not get involved in the day-to-day operations of the District. The Directors relied completely upon the District Fire Chief/Manager to define their role within the District. Wikipedia defines a Board of Directors as "a body of elected or appointed members who jointly oversee the activities of …an organization. A board's activities are determined by the powers, duties and responsibilities delegated to it or conferred on it by an authority outside itself." It became obvious to this Grand Jury that the authority outside itself, namely the Chester public served by the District, expected the Board to use its powers, honor its duty and live up to its responsibility. Those expectations were not realized.

California Government Code Section 54950, the Ralph M. Brown Act states "The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. **The people insist on remaining informed so that they may retain control over the instruments they have created.**" The Board meetings lacked substantive discussion and seldom provided meaningful information to the public. The Grand Jury observed and testimony was given that a quorum of Directors would gather behind closed doors prior to open meetings, giving the perception that District business could have been discussed.

Directors would often debate with community members during the meeting. This behavior was disrespectful on the part of the Board and reinforced the Grand Jury's perception that the Board did not understand that they work for the public.

The CPUD Board was flying by the seat of their pants. None of the Directors were able to produce a copy of the Robert's Rules of Order by which they claim to abide. This Grand Jury observed the Directors generally and somewhat loosely following Robert's Rules of Order. Inasmuch as motions were made and seconded, passed with majority of approval and speakers were usually given the floor by the presiding Director, Robert's Rules were followed. None of the Directors were able to produce a copy of the District By-Laws and/or Rules which they claimed to follow. Two Directors did provide a copy of the CPUD Personnel Procedure Manual and a copy of the CFPD Operations Manual in response to the request for by-laws. This speaks to the fact that the Board has no understanding regarding what by-laws and rules are.

California Government Code, Division 3, the Community Services District Law and Division 7, the Public Utility District Act governs the Fire District and the Water and Sewer District

respectively. Special District Boards are required to adopt rules or by-laws for their proceedings (Division 3, Section 61045(f) and Division 7, Section 16071). By-laws are the rules and regulations enacted by the District to provide a framework for its operation and management. By-laws may specify the qualifications, rights, and liabilities of membership, and the powers, duties, and grounds for the dissolution of the district. The CPUD could provide no evidence that they had any such guidance.

On the job training is not appropriate for this job!

None of the five board members had any orientation to or training on the responsibilities of governance. This is, in the Grand Jury's estimation, one of the significant factors in the failure of the Board to realize their mission. It is a dangerous choice to 'fly by the seat of your pants.' At some point, especially after it became apparent that the behavior of the Fire Chief/Manager might be questionable and after the public began to question the actions and non-actions of the Board, it would have been prudent for the Board to take charge. Because the Directors did not know that they were ultimately responsible and accountable to the public and that the Fire Chief/Manager was ultimately responsible and accountable to the Board, the financial health of the District declined.

Secrets, secrets and more secrets.

Four of the five Board members claimed that they felt betrayed by the Fire Chief/Manager. We believe that the Board set themselves up to be betrayed by allowing the Fire Chief/Manager to assume the governance power that they should have assumed.

The Fire Chief/Manager, a salaried employee, submitted his own pay vouchers directly to the District's CPA who then cut his payroll checks. The pay vouchers were created by the Fire Chief/Manager and required no review or approval. The CPA, for lack of guidance to the contrary, was obligated to pay the Fire Chief/Manager per the voucher he alone submitted. The Grand Jury reviewed the pay register for the Fire Chief/Manager for the period 1/8/2010 through 9/28/2012. Seventy-two (72) pay vouchers submitted by the Fire Chief/Manager for his pay were paid out and two (2) checks made out to the Fire Chief/Manager were paid out. None of the pay vouchers and neither of the paychecks (one check for $11,353.27 and one check for $6,004.70) indicated specifically what the pay was for. That is, there was no explanation of how many regular hours he worked, how many vacation hours were paid out or how many sick hours were paid out. No other exceptions were identified. There was one voucher in the amount of $31,549.01 which simply stated "other pay".

The District required two signatures on vendor checks drawn from District funds. The Grand Jury reviewed at random thirty-four (34) vendor checks each over $5,000 from January of 2010 through January of 2011, a period where two signatures were required for checks over $5,000. Of those thirty-four checks requiring two signatures, we found one check (#2500) in the amount of $9492.44 signed by the Fire Chief/Manager only and one (#2855) in the amount of $5,603.00 signed by the Fire Chief/Manager only. Whereas we found in a year's period only two instances where the rules were not followed, this Grand Jury believes this demonstrates, nonetheless the Board's lack of fiduciary responsibility and the Fire Chief/Manager's lack of accountability.

Beginning on August 7, 2008, the former Fire Chief/Manager would routinely develop the Board agenda, sign the agenda as "Assistant Secretary," post the agenda and would even determine whether or not a Board meeting needed to be postponed or canceled based solely upon his availability. The Fire Chief/Manager changed draft minutes of Board meetings, removing items to be reviewed at the next meeting. There is evidence that the Fire Chief/Manager removed from the Clerk's Board binder the original, signed agenda and minutes to the January 12, 2010 meeting and requested access to the electronic copy held by the Board Clerk. The Fire Chief/Manager also requested the original, hand-written minutes and the Closed Session folder. He was given access to the electronic files and may have been the one who amended the agenda by adding the sentence "Because of the consolidation new salary schedule for the Fire Chief/General Manager is attached." He also may have amended the minutes to the 1/12/10 Board meeting by including an attachment titled "Fire Chiefs Salary Schedule," indicating at the bottom of the document "Approved by BOD on January 12, 2010." The Board Clerk was unable to provide this Grand Jury with copies of the original, signed agenda or the original, signed minutes which had been in the Board binder before the Fire Chief/Manager accessed the book. The Board Clerk did, however, provide copies of the agenda and minutes which the Clerk had presented to the Board for approval. Neither of those copies had the added items mentioned above.

The Grand Jury has determined that the Fire Chief/Manager announced his intent to retire at the November, 2011 Board meeting closed session and that the Board and the Fire Chief/Manager kept that fact from the staff of the District. The report on closed session from that meeting indicated only that the Fire Chief/Manager was taking a cut in pay. The Grand Jury was told that the Fire Chief/Manager took a cut in pay as a way to help relieve the financial burden the District was experiencing at that time, inferring that the Fire Chief/Manager was continuing to fill his role as a full time employee of the District. Although documents from CalPERS infer that the Fire Chief/Manager was collecting a pension, the Grand Jury was not able to confirm that. Based upon the information on the pay vouchers the Fire Chief/Manager submitted for the fiscal year 2011/2012, he worked a minimum of 2,015 regular hours in that fiscal year. Given the fact that the Fire Chief/Manager was not required to complete a time sheet, the Grand Jury must assume he worked a standard work day. If he did, indeed continue to work for the District while he was collecting his PERS pension, his employment at the District was contrary to California Government Code 21224 which stipulates that "A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the public agency (CPUD) employer either during an emergency to prevent stoppage of public business or because the retired person has specialized skills needed in performing work of limited duration. Their appointments shall not exceed a combined total of **960** hours for …. each fiscal year." The Fire Chief/Manager was paid for more than twice the 960 hour limit in that fiscal year.

Board meetings are intended to be public venues at which the Board receives updates from management and where the Board makes decisions. It is not the Fire Chief/Manager's meeting and there is no regulatory requirement for the Fire Chief/Manager to even be at the meeting. Since there are no by-laws dictating that the Fire Chief/Manager must attend the

Board meeting, it was inappropriate for the Board to allow cancellation of the meeting. In colloquial terms, it is the Board's party.

Possible Brown Act Violations

The Grand Jury reviewed agendas, minutes and financial reports for the period July of 2008 through March of 2013. The agendas, at best were barely informative. This Grand Jury found that the agenda items marginally follow the requirements of the Brown Act which defines the manner in which public entities meet and make decisions. The Brown Act requires that "a brief general description" is identified for each agenda item. Financial reports were only reviewed in public if a Director had a question about any item in the report or if a member of the attending public asked for any information.

The Grand Jury did not observe any substantive discussion about the financials which leads us to believe that either the Directors seldom questioned the information because it was usually straightforward or that there was usually complete understanding of the report's contents. The Grand Jury observed more than two Board members gathering in an office prior to Board meetings. Whereas we are, of course unable to determine that they discussed District business contrary to the Brown Act, the perception is that they had the opportunity to do such. The questions asked by the public at the meetings the Grand Jury attended indicate that the financials might not have been so straightforward, giving credence to the possibility that District business, even the financials, was discussed in the Fire Chief/Manager's office prior to the meeting.

Chester Public Utility District belongs to the Public

The Grand Jury finds the Board's practice to receive only a written financial report to be contrary to the requirements of the Brown Act. It is certainly appropriate, even required that management gives a summary of the financials at each meeting, allowing the information to be shared with the attending public. It is even appropriate for the public to receive copies of draft summary financials with their agenda. It is also appropriate for the public to receive copies of draft minutes from the previous meeting. It was the Grand Jury's experience that the public received only the sparse agenda unless someone in the attending audience asked for a copy of the minutes or financial report.

Prior to the June 2012 meeting, there was no restriction identified in the agenda for public comment. From June 2012 through December, 2012, the agenda noted that the public was "limited to three (3) minutes per speaker per meeting, five (5) speakers per single issue per meeting, no more than fifteen (15) minutes per issue or agenda item and not more than 45 minutes total per meeting, assuming a sufficient number of speakers is present to use the time." California Government Code Section 54954.3(b) allows reasonable restrictions on the time the public may have for comment, but does not set a restriction on the number of speakers, assuming the other restrictions are met. The February, 2013 CPUD Board meeting agenda stated a more lenient public comment restriction, noting that, per CPUD Resolution #105, "public comment is restricted to three (3) minutes per speaker per meeting per each agenda item and per each non-agenda item, kindly requesting five (5) speakers per single issue per meeting" and "respectfully" requesting the "community members to keep to the suggested time frames."

State and Federal Issues

The Grand Jury is fairly confident that the CPUD Board was, for the majority of its tenure, intentionally kept in the dark regarding issues the Fire Chief/Manager wanted to keep close to his chest. On July 20, 2010, the California Public Employees Retirement System (CalPERS) notified management (the Fire Chief/Manager) that an audit of the Chester Fire Protection District found that the District had not reported appropriately to CalPERS. CalPERS offered to assist the District in resolving the findings in their report, requesting a written response within thirty (30) days of the letter indicating the progress in resolving the noted risks.

CalPERS identified at least two issues where the District may not have accurately reported compensation to CalPERS and one issue where the District may not have accurately reported payroll information to CalPERS. The three items were:

A) Under the risk category of reports of compensation:
    1) The value of uniforms was not reported
    2) Holiday pay was not reported

B) Under the risk category of payroll reports:
    3) Special compensation per the Fair Labor Standards Act (FLSA) was included in regular earnings

None of the five Directors interviewed had any knowledge of this audit or its findings. The Fire Chief/Manager received the audit notification and request for response and was obligated to report this to the Board.

In 2012, the District did not receive payment from Medicare for ambulance service in the amount of approximately $180,000. The only staff member who had access to the Medicare account and who could ensure that all information was updated, as needed to receive Medicare reimbursement, was the Fire Chief/Manager. It is doubtful that the Board would ever have known about this until the Fire Chief/Manager was no longer in charge. The Director who was sitting as the acting Manager after the Fire Chief/Manager retired discovered that Medicare had not reimbursed the District because the District had not billed Medicare. Medicare had, at the time the CPUD and CFPD consolidated, requested a new provider identification number. The Fire Chief/Manger had not provided the requested information so Medicare could not be billed. The District's CPA had notified the Fire Chief/Manager in writing that at least ten (10) or eleven (11) months of Medicare payments had not been collected and asked for an explanation. The CPA never received a response from the District. The Grand Jury concluded that the Board was never advised about the Medicare billing issue. This, too, is the kind of information the Fire Chief/Manager was obligated to share with the Board and the public.

Contrary to Government Code Title 6, Division 3, Section 61045(f) and Section 61045(g) the District could not provide a copy of the By-laws or rules for its proceedings, and they do not have administrative, fiscal, and purchasing policies or procedures for the operation of the District.

Ignoring good advice

The audit firm of Haws, Theobald and Auman audited the District finances annually. The Grand Jury reviewed the last three audits performed (fiscal years 2010, 2011 and 2012). Each audit found the same material weaknesses as follows:

- Lack of segregation of duties – (allowing for the possibility of financial statement misstatement and fraud) caused by the number of personnel assigned to duties that involve access to the general ledger and other accounting records and who also have custody of and responsibility for handling cash and other assets.
- Financial reporting – the District does not have policies and procedures in place to ensure that complete and accurate financial statements, footnote disclosures and management's discussion and analysis are prepared in accordance with GAAP (Generally Accepted Accounting Practices) prior to the annual audit.

At the time of this report, the District had not yet approved the fiscal year 2012 financial audit, as required by law. The District must consider the audit findings as 'draft' findings until the auditor has received a signed confirmation that the data which was submitted by the District to the auditor is correct and true. The auditor then submits their findings for Board approval. The draft 2012 audit contains the same two material weaknesses noted in previous years as well as an additional three (3) material weakness findings as follows:

1) Financial Mismanagement – there were five situations where the financial affairs of the District were not handled properly:
    - The District, for an extended period of time, did not bill properly and completely for its ambulance services.
    - The District allowed very large payables for workers compensation insurance ($92,046) and for PERS retirement ($138,000) to accrue during the year.
    - The District fell behind in its billing of fire contracts during the year, thereby potentially losing funding.
    - The District did not adequately safe-guard medical supplies (greater than $12,000) and equipment which were donated in the year, and these items have subsequently gone missing.
    - The Fire fund has not made payments on its loan to the Sewer fund.
2) Unauthorized Transactions – Several cash disbursements were made of District funds which were not properly authorized or appropriate:
    - Inappropriate credit card transactions of approximately $1,700 were incurred and not reimbursed to the District.
    - Approximately $50,000 accrued pay, that was not authorized by the appropriate personnel, was paid out during the year.
3) Leadership Breakdown – there is a lack of oversight by the Board and the General Manager during the year. Additionally, there has been inadequate control over the documentation of the formal actions of the Board. This was noted when it appeared that board minutes had been modified from those originally approved by the Board.

District response to the finding that there was a lack of segregation of duties was that "due to the number of employees of the District, it was not possible for the District to cost-effectively mitigate this finding." The District did note that "being aware of this weakness will ensure that existing employees and Board members will maintain diligence to potential risks of not having an adequate segregation of duties".

District response to the finding that there were no policies and procedures in place to ensure that financial statements, and analysis were prepared per GAAP standards was that the costs of correcting this control weakness outweigh the benefits to be received.

This Grand Jury believes that this is another situation where, if the Board truly understood their role and respected the advice of the auditors, they would have employed some imagination or at least researched financial best practices for special districts. The Board allowed the finances of the District to decay by simple inaction.

Boards can be effective only when each Director and management work collaboratively to develop a model for the organization, maintain a unity of purpose, resolve problems, set behavior standards and develop a cohesive governing team to guide the District to success. The CPUD demonstrated virtually none of this collaboration, certainly not between the Manager and the Board and not even between the individual Directors.

Who's the boss?

The Fire Chief/Manager operated completely independently and without supervision. The Board did not know his hours and did not require notification of vacation or sick time. The Board did not approve the Fire Chief/Manager's time sheet, sign off on his payroll check and did not routinely evaluate his performance.

The District's CPA, on several occasions made suggestions as to ways to improve the financial reports, making them more readable and useful. The Fire Chief/Manager routinely held up forwarding data to the CPA, preventing the CPA from producing financial reports in a timely manner. When the Grand Jury asked the Directors what their response was when the financials were not ready for approval, they noted that they contacted the CPA asking what the holdup was. They were told that the CPA was waiting for information requested of the Fire Chief/Manager. The Grand Jury then inquired what action the Board took to speed the process along. It was the Directors' position that it was the CPA's responsibility to get the information from the Fire Chief/Manager.

The Board did not demonstrate any significant knowledge regarding the laws and regulations which are applicable to their positions as public servants. The Board would, during Board meetings, defer to staff members for answers to questions from the public regarding District requests for proposal, inventory processes and regulations affecting the finances of the District and Brown Act requirements. A reporter with Feather Publishing, attending the February 12, 2013 Board meeting inquired, "What is the impact of Assembly Bill 97 on the District?" Assembly Bill 97 proposed to implement a 10% rate reduction to **Medi-Cal** providers, specifically affecting emergency and non-emergency medical transportation providers. The bill was enacted on January 1, 2011 but implementation continues to be held up in court. One of the Directors responded that "Medicare" (not Medi-Cal) changes fee

schedules regularly, that they are not required to pay on a regular schedule and that when all is said and done, it probably will not have any impact on the District at all. The Grand Jury determined that California Assembly Bill 97 would, indeed impose a 10% reduction in the reimbursement rate the District could claim for ambulance service, regardless of any payment schedule or timeframe.

Bottom Line

The CPUD Directors who were sitting at the time the Plumas County Civil Grand Jury began investigating the CPUD came to their position with adamant faith in the Manager of the District, namely the Fire Chief. This mulish confidence prevented the Board from recognizing the Fire Chief/Manager's behavior as improper, possibly illegal. This Grand Jury is not offering an excuse for the Board rather we offer this 'take away' for them: since the Board is ultimately responsible for the District, they are obligated to become familiar with all aspects of governance and should hold tight the ideal of fiduciary accountability. The employees of the District are accountable to the Manager of the District, the Manager is accountable to the Board and the Board is accountable to the public which they serve. The Grand Jury believes that if the Board wraps their heads around that concept, they will ultimately be successful.

FINDINGS:

F1. The CPUD Board of Directors, due to the lack of training and/or orientation, does not understand its governance role.

F2. The CPUD Board of Directors does not demonstrate effective oversight of management.

F3. The CPUD Board exhibits a meticulous lack of transparency contrary to regulation.

F4. The CPUD Board engages in verbal battles with the public during Board meetings.

F5. There are no District By-Laws or rules which direct the functions of the CPUD Board.

F6. The CPUD Board is neither aware of nor familiar with regulations which apply to the District, specifically regulations regarding Board responsibility.

RECOMMENDATIONS:

R1. The 2012 /2013 Plumas County Civil Grand Jury recommends, above all else, that the CPUD arranges for governance and Brown Act training for all of the current Directors of the District and for the Clerk of the Board, and that the District creates an in-depth orientation program for every new Director coming on board.

R2. The Grand Jury recommends that the CPUD Board of Directors reviews all District financial processes in order to create and implement, to the extent possible, appropriate fiscal procedures per Generally Accepted Accounting Principles.

R3. To help ensure transparency, the Grand Jury recommends the following:

- The Board requires a brief financial summary to be presented by the District Manager aloud at each public board meeting.
- The CPUD posts meeting agenda, at a minimum at the Chester Post Office as well as at the District office.
- The District develops a District website and that it includes upcoming and past meeting agenda, minutes, and any information which would be useful to the public. The website should include contact information for each member of the Board Directors and District management.
- The Board publishes board packets including agenda, draft minutes and the draft financial report for the public to be handed out at the beginning of each meeting.

R4. The Grand Jury recommends that the Board Chairperson and any other Director or staff member responding to questions from the public ensures that they remain respectful in their manner of response. It is certainly appropriate for the Chairman of the Board to refrain from debating with someone during the public comment period, to simply thank the speaker for their input and, if the Board is unable to give a brief, accurate response, commit to responding in writing before the next scheduled Board meeting.

R5. The Grand Jury recommends that the Board establish By-laws which among other things, define the role of management and the role of the Board as well as those requirements of the California Government Code (Ralph M. Brown Act), §54954. This can appropriately be accomplished by investigating best practices for Special Districts.

R6. The Grand Jury recommends that the Board routinely networks with other districts to share best practices regarding appropriate by-laws, policies, procedures and issues affecting production and distribution of water, sewer and street lighting services and the provision of fire protection.

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

CONCLUSION:

The 2012/2013 Plumas County Civil Grand Jury (Grand Jury) recognizes the sometimes overwhelming burden of governance and sincerely appreciates the CPUD Directors who volunteer their time and energy to help make a difference in their community. Each and every one of the five Directors of the CPUD volunteered for the position as a way to make a contribution and to make a difference in the community. This commitment often requires Directors to make the District a priority over work, recreation and even over family. The citizens of the District also assume some responsibility for the success of the District and should embrace that responsibility equally with dedication and energy.

The Board of Directors of the CPUD ignored their fiduciary responsibility by placing unwavering trust in the Fire Chief/Manager of the District, allowing him to operate completely independently and totally unsupervised. The Fire Chief/Manager was allowed to pay himself his own wages and was not expected to track or even report his time off. The Fire Chief/Manager and the Board did not report to the staff or the public when the Fire Chief/Manager first 'retired' yet continued to work for the District.

The Fire Chief/Manager wrote and signed vendor checks for amounts above the $5,000 limit allowed for one signer with no apparent consequences. The Grand Jury determined that the Board did not even routinely inspect the finances to ensure that the public's money was being spent appropriately.

Governance is not just a "fire watch." It is not enough to rely on information from the Fire Chief/Manager alone regarding the operations of the District. It is not enough to address only issues defined singularly by the Fire Chief/Manager. The Board not only has the power to govern, it has the responsibility to govern. The CPUD Board should have held the Fire Chief/Manager accountable to the Board and themselves accountable to the public. The CPUD Board of Directors needs to reevaluate their mission, and focus on educating themselves about what their roles should be and what it means to lead a special district to success. This will involve a more 'hands on' approach, especially with regard the finances of the District.

REQUEST FOR RESPONSES:

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- The Chester Public Utility District Board of Directors

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

BIBLIOGRAPHY:

www.CALPERS.ca.gov Updates to Retiree Hiring Laws

Sinclair & Associates, Local Government Consulting Services, *Chester Fire Protection District/Chester Public Utility District – District Consolidation Financial Feasibility Analysis and Report*, December 26, 2008

www.sacbee.com/2012/07/06/v-wireless/4612822/citizens-seek-recall-of-chester.html Bee State News *Citizens seek recall of Chester Public Utility District members*

http://ballotpedia.org/widi/index.php/Chester_Public_Utility_District_recall,_California_(2012)&oldid=1491844 *Chester Public Utility District recall, California (2012)*

http://sgf.senate.ca.gov/thefireprotectiondistrictlawof1987 *The Fire Protection District Law of 1987*

California Government Code, Division 3 Community Services Districts
www.sen.ca.gov/locgov *Integrity & Accountability: Exploring Special Districts' Governance*, 11/24/2003

California Government Code, Division 7 Public Utility Law

www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0051-0100/ab_97_cfa_20110316_20470... *AB 97 Assembly Bill – Bill Analysis*

www.yourparliamentarian.com/Summary.htm *Rules-of-Order Summary*

www.robertsrules.org/indexprint.html *RobertsRules.org/Robert's Rules of Order - Summary Version*

The State of California, The Little Hoover Commission, May 3, 2000, *Special Districts: Relics of the Past or Resources for the Future?*

http://en.wikipedia.org/wiki/Board_of_directors *Board of Directors from Wikipedia*

Senate Bill No. 135, Chapter 249, Kehoe, 9/22/2005, *Community Services District Law*

http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml Title 6, Division 3, Community Services Districts, Part 2 Internal Organization, Chapter 3, Board of Directors

California Government Code Section 54950 – 54963, the Ralph M. Brown Act

www.leginfo.ca.gov/cgi-bin/displaycode?section=pcc&groupo=20001-21000&file=2...
Public Contract Code Section 20100-20103.7

http://codes.lp.findlaw.com/cacode/GOV/1/5/d3/1/2/s56044 California Government Code Section 56044 "Independent Special District"

http://codes.lp.findlaw.com/cacode/PCC/1/d2/3/1.5/104/s21391 California Government Code Section 21391 "Special District Contracting"

www.csda.net California Special Districts Association, *Fact Sheet: Public Records Act*

www.csda.net California Special Districts Association, *Fact Sheet: The "Right" Number of Special Districts*

www.csda.net California Special Districts Association, *Fact Sheet: Local Government Reorganizations*

www.csda.net California Special Districts Association, *Comprehensive Overview of Types of Special Districts*

www.csda.net California Special Districts Association, *Special District Board Member/Trustee HANDBOOK*

www.csda.net California Special Districts Association, Special District: *Compensation for Directors and Trustees*

www.csda.net California Special Districts Association, *CSDA's Guide to Special District Laws and Related Codes*

www.csda.net California Special Districts Association, *WHAT'S SO SPECIAL ABOUT SPECIAL DISTRICTS? A Citizen's Guide to Special Districts in California*, fourth edition, October, 2010

www.csda.net *Special District Reserve Guidelines*, 9/24/2007

http://senweb03.senate.ca.gov/committee/standing/GOVERNANCE/SPECIALDISTRICTINFORMATIONSOURCES Special District Information Sources, General Information

California Debt & Investment Advisory Commission, *Local Agency Investment Guidelines, 2011*

California Research Bureau, California State Library, CRB-98-002, *Local Government Ethics Ordinances in California, March, 1998*

Special District Leadership Foundation, *Guidelines for Conduct: A Primer for Special District Officials*

www.sen.ca.gov/locgov *The Quick List, An Annotated Glossary of Local Government Statutes*, Second Edition, February, 2009

http://law.onecle.com/california/government/21221.html *Retiree hiring laws*

ATTACHMENT A

CFPD/CPUD CONSOLIDATION ANALYSIS

DECEMBER 26, 2008

	SEPARATE DISTRICTS			CONSOLIDATED DISTRICTS			COST INCREASE (DECREASE)		
PERSONNEL COSTS:	**CFPD**	**CPUD**	**TOTAL**	**CFPD**	**CPUD**	**TOTAL**	**CFPD**	**CPUD**	**TOTAL**
Consolidate Fire Chief/ PUD Manager Positions	$119,285	$110,558	$229,843	$71,507	$71,507	$143,014	($47,778)	($39,051)	($86,829)
Reduced Clerical Staff (20 hrs/week)	$20,298	$44,640	$64,938	$10,833	$35,174	$46,007	($9,466)	($9,466)	($18,931)
Equalize Clerical Hourly Rate	$20,298	$44,640	$64,938	$20,298	$48,542	$68,841	-	$3,902	$3,902
Modify CalPERS Benefit Formula	$38,000	$42,000	$80,000	$97,805	$42,000	$139,805	$59,805	-	$59,805
Equalize Employee Medical Benefits	$40,000	$60,000	$100,000	$83,368	$60,000	$143,368	$43,368	-	$43,368
Worker's Compensation Insurance	$40,000	$11,000	$51,000	$40,000	$5,755	$45,755	-	($5,245)	($5,245)
NON-PERSONNEL COSTS:									
Rent	$ -	$5,600	$5,600	-	-	-	-	$5,600	$5,600
Custodial and Maintenance	$20,000	$1,600	$21,600	$19,200	$800	$20,000	($800)	($800)	($1,600)
Telephone Service	$5,000	$4,400	$9,400	$3,400	$2,800	$6,200	($1,600)	($1,600)	($3,200)
Utilities	$10,000	$3,800	$13,800	$8,100	$1,900	$10,000	($1,900)	($1,900)	($3,800)
Elections	$2,500	$2,500	$5,000	$1,250	$1,250	$2,500	($1,250)	($1,250)	($2,500)
Audit	$6,500	$5,600	$12,100	$5,500	$4,600	$10,100	($1,000)	($1,000)	($2,000)
Total Cost Increase (Decrease)							**$39,379**	**($62,009)**	**($22,630)**