

Grand Jury Final Report 2007/2008



JULY 24, 2008

AS REVIEWED BY THE HONORABLE
JUDGES DAVID GAMBLE & MICHAEL GIBBONS

TABLE OF CONTENTS

Introduction.....	2
Grand Jury Generated Investigations.....	4
School Committee.....	4
Jail/Detention Center Committee	7
Emergency Management Committee.....	9
Community Generated Complaints Index	11
Community Generated Complaints by Committee with Recommendations	12
Grand Jury	12
Community Services Committee.....	15
Community Development Committee	26
Airport Committee.....	31
Emergency Management Committee	34
Presentations for Criminal Indictment	38
General Recommendations.....	40
Acknowledgements	41

INTRODUCTION

On Wednesday, July 18, 2007, a 17-member Douglas County Grand Jury was impaneled by the Honorable David R. Gamble and the Honorable Michael P. Gibbons, 9th Judicial District Court Judges for Douglas County, Nevada. Twelve alternates were also selected.

This 2007/2008 Grand Jury was impaneled in response to the 1994 Grand Jury's recommendation that a Grand Jury be impaneled periodically. Since the prior Grand Jury was impaneled during 2000/2001, a substantial period of time had passed since a Grand Jury reviewed the operation of Douglas County government.

The Grand Jury is an autonomous group of citizens empowered by the District Court and the State of Nevada

To: investigate the workings of county government operations **and**

To: make recommendations for corrective actions when warranted.

The Grand Jury has the power of subpoena, may compel testimony, hears all evidence in secret, and can indict to initiate criminal prosecutions of crimes within the county.

These characteristics make the Grand Jury uniquely suited to inquire into official corruption, the wrongful performance of a lawful act and criminal activity on behalf of the citizens of Douglas County.

Members of the Grand Jury were selected as specified in the Nevada Revised Statutes Section 6.120. The County Clerk used the Douglas County computer to select names from the list of all qualified jurors within Douglas County.

The statute requires that 36 people be able and willing to serve. Questionnaires were sent to all the names to determine their ability and willingness to serve.

The qualified individuals were summoned and briefly interviewed by Judges Gamble and Gibbons.

The charges for a general Grand Jury are set forth in Nevada Revised Statutes 172.175. This statute specifically provides that each Grand Jury that is **not** impaneled for a specific limited purpose shall inquire into:

- The case of every person imprisoned in the jail of the county, on a criminal charge, concerning whom an indictment has not been found or an information or complaint not filed
- The condition and management of any public prison located within the county
- The misconduct in office of public officers of every description within the county, which may constitute a violation of a provision of Chapter 197 of NRS.

(Chapter 197 addresses Crimes concerning the Executive Power.)

A Grand Jury that is **not** impaneled for another specific limited purpose may inquire into any and all matters affecting the morals, health and general welfare of the inhabitants of:

- the county
- any administrative division thereof
- any township, incorporated city, irrigation district or town therein

A Grand Jury term of empanelment is one year, and community members selected serve voluntarily.

The 2007/2008 Grand Jury began its investigations by inviting members from the previous Grand Jury to discuss their experience and offer their guidance as to organization and process. Their insight was most helpful to the newly formed jury and provided the basis for timely organization, committee assignment and election of officers.

Officers elected: Foreperson, Vice-foreperson, Secretary, Assistant Secretary with Constable Paul Gilbert, as Sergeant-at-Arms. Meeting times: weekly.

We also reviewed the final reports of the 1990, 1993/1994 and the 2000/2001 Grand Juries to see what recommendations were made. The results of this survey--whether these recommendations were implemented or not and how effectively--will be covered in subsequent sections of this report:

- Grand Jury Generated Investigations
- Community Generated Complaints by Committee with Recommendations.

The 2007/2008 Grand Jury dedicated themselves to producing a quality final report. Commitment, perseverance, and hard work remained constant throughout the Jury's term.

In gathering information to answer the complaints or investigate issues, we were alert and sensitive to the importance of avoiding any personal bias and maintaining impartiality. Since all Grand Jury members were able to attend and participate regularly, the alternate jurors were not needed.

GRAND JURY GENERATED INVESTIGATIONS

SCHOOL COMMITTEE

No specific complaints were received from individual members of the community regarding education in Douglas County. The 2007/2008 Grand Jury conducted its investigation as part of its general charge to review county services.

Summary

The members of the Education Committee identified the following issues for investigation:

- Safety in schools including evacuation and emergency procedures
- Guidelines and procedures for nutrition and food availability
- Evaluations of both student achievement and teacher effectiveness
- Concern for the quality of education in Douglas County, including programs for students with special needs and preparing all students to be effective citizens and members of the community.

Description of the Investigative Findings

Representative members of Douglas County education were interviewed including teachers, counselors, principals, and administrators. Published guidelines and information about school procedures and policies were also reviewed.

Safety:

Through combined efforts of the emergency personnel from the Fire and Sheriff Departments, teachers and other school employees are trained in various types of emergency procedures including fire, bomb threat, and suspected armed intruder. Procedures have been developed to keep the students safe.

However, two significant issues were identified:

- Consistent and reliable communication between classrooms and administrative offices presents a major problem in alerting teachers and students who may be in danger. This problem is especially worrisome in schools with several buildings.
- Most classrooms and common rooms do not have locks on the doors. In the event of a threatening intruder, there would be no practical way to prevent entry into a classroom.

Nutrition:

The nutritional guidelines regarding availability of food provided at schools appear to be adequate. Accountability and control is centralized within the school district to be sure that all food served at schools conforms to the guidelines. The guidelines provide exceptions for holidays and special occasions in classrooms. However, food, especially sweets, may occasionally be used to reward or encourage students' performance.

Evaluation of student achievement and teacher effectiveness:

Evaluation of school administrators, teachers, and staff is critical to effective education. The School Board has the responsibility of establishing procedures and guidelines to ensure the overall efficiency of education in the county. Administrative personnel are charged with evaluating and supervising teachers and staff.

Description of the Investigative Findings (cont.)

Procedures and guidelines are in place to ensure regular evaluation of:

- teachers' lesson plans and classroom performance by principals
- school principals by central administrative staff

However, the evaluations are not done consistently.

In addition, we did not find any evidence of consistent standards to relate the performance of teachers to the achievement of their students. School principals review the teachers' lesson plans. However, it is not clear that:

- the lesson plans consistently include descriptions of classroom activities
- those activities relate to the specific learning objective, tests and other measurements of learning.

In addition, principals are required to observe teachers in the classroom on a regular basis. Although this is accepted as a goal, it does not appear to be occurring consistently.

Evaluation of student achievement has been given high priority. Douglas County students are required to take regular standardized tests. In fact, there are overlapping, and possibly redundant, batteries of tests required of Douglas County students in addition to those required by the State of Nevada. The goal of ensuring that students are getting the skills and information they need to be effective adults is commendable. However, the tests are time consuming and may actually be interfering with learning by taking valuable time from the classroom.

Special students, both those with specific physical and mental challenges and those who are gifted, have access to programs designed for their needs in Douglas County. Individual education programs are available to students with special challenges, and accelerated classes to those who require more information than may be provided in a regular classroom. In addition, special programs have been developed working with members of the business community to provide specific job-related skills leading to specific non-college level careers for students who do not wish to pursue college.

However, the drop-out rate for high school students is an area of concern. It is, evidently, difficult to accurately measure the number of students failing to complete high school. The requirements for graduation from Douglas County High Schools are complex and include:

- passing multiple batteries of tests;
- attendance for specific periods and completion of specific numbers of classes.

Keeping up with all of the requirements is the responsibility of clerical personnel and, given the complexity, it is understandable that errors may occur. Timely communication with students and parents on the status of meeting all of the graduation requirements may also be inconsistent.

An inordinate number of teachers have retired this year due to a change in health benefits. Douglas County School District lost many talented teachers. Many alumni who are now accomplished adults would be ready to testify as to the positive impact these teachers had on their lives. This has been an unfortunate loss that will present a challenge to the School District in replenishing the experience capital of these tenured teachers.

Recommendations

Safety Issues:

- 1) Locks need to be installed on the insides of all doors, including offices, classrooms, common rooms, etc. We realize that this is an expense. However, the safety of our children is at risk and one event involving an armed intruder could be disastrous. Perhaps the community needs to be invited to become involved and participate in raising the funds for this important project.
- 2) A consistent and reliable means of communication between classrooms and school offices should be installed and maintained at all schools.
- 3) Regular training and drills in various types of emergency procedures, including evacuation for fire, bomb, suspected shooter, etc. should be continued.

Nutrition:

- 1) Lapses in conforming to the nutritional guidelines may occur when food is provided as a reward in specific classrooms. We believe that this practice needs to be monitored more closely since the benefit is questionable and outweighed by the disadvantages.

Quality of Education - Student and Teacher Evaluations:

- 1) A committee needs to be formed to study the problems of overlapping and possibly redundant testing with the goal of eliminating unnecessary testing and simplifying the graduation requirements. This will also reduce the time students must miss classes due to required testing. In addition, simplifying the graduation requirements may improve the completion rate for high school seniors by making it easier to identify and correct deficiencies. It will also make communication with students about graduation status more straightforward.
- 2) The existing guidelines for evaluating teachers through review of lesson plans and observation in the classroom need to be consistently followed. In addition, administrative personnel need to consistently evaluate school principals, counselors, assistant principals and other school level administration. Regular reports to the School Board will ensure that these evaluations are occurring and are given the priority they require.
- 3) More careful monitoring and reporting needs to be implemented to track the reasons students either do not complete a diploma or choose an alternate diploma (adult diploma and GED). This should include documented "exit interviews" with students and parents when possible or documentation of why the information was not available. Perhaps a committee of education and community representatives could review the data to make recommendations on improving the success rate of high school students.
- 4) More priority needs to be placed by school administration and teachers on identifying students at risk early and forming plans to address the deficiencies. The responsibility needs to be elevated to a certified employee and the Principal held responsible for appropriate action by the teachers and counselors involved.

JAIL/ DETENTION CENTER COMMITTEE

There were no complaints received by the 2007-2008 Grand Jury regarding the Jail/Detention Center operations within Douglas County.

The Grand Jury was made aware of a recent occurrence at the Lake Tahoe Jail. That event is currently undergoing investigation and review.

It is the usual and expected duty of a Douglas County Grand Jury to inquire into the management and conditions of all Douglas County Jail/Detention facilities.

Description of Investigative Findings

The initial step taken by the Jail/Detention Center Committee was to review the recommendations made by the 2000/2001 Douglas County Grand Jury in its final report. That report contained seven recommendations:

- 1) Clarification of the chain of command; identify accountability and adherence to policy.
- 2) Place a full-time sergeant on duty in the jail at all times.
- 3) Contract with a physician/mental health care provider.
- 4) Improve security in the inmate examination area.
- 5) Revise the policy for medication procurement, storage, handling, dispensing and accounting documentation.
- 6) Increase staffing levels of deputies assigned to jail operations.
- 7) Place a sergeant in charge of all bookings and classifications.

The 2007/2008 Douglas County Grand Jury reviewed the current policy and procedure manual for jail operations. That review indicated that the deficiencies noted in the prior Grand Jury Report had been addressed. Additionally, the members of the Grand Jury conducted interviews with various Douglas County Sheriff's Office personnel. It was found, to the satisfaction of the 2007/2008 Douglas County Grand Jury, that the policy and procedure manual has been implemented with good adherence to those policies and procedures.

The committee made several site visits to the various jail/detention facilities located throughout the county. The jail facilities are under the supervision of the Douglas County Sheriff's Office.

Grand Jury jail committee members had obtained a facility audit form pertinent to correctional facilities. This form used compliance/non-compliance entries for the following categories:

- Sanitation
- Offender management, inmate disciplinary process, inmate grievance process
- Key control and tool control
- Emergency plans, restraint equipment, and counts
- Searches and control of contraband
- Mail, culinary, records and medical
- Recreation, clothing/laundry, work assignments

Each facility visited was found to be in compliance in all categories. Staffing at the Douglas County Sheriff's Department is adequate but not optimal.

Description of Investigative Findings (cont.)

The committee inspected the juvenile facilities at Lake Tahoe, China Springs Youth Camp, and Aurora Pines Girls Facility. These facilities are under the supervision of the Douglas County District Court Judges.

Clients are referred from the juvenile justice system as adjudicated youth found to have mental health and/or delinquent issues with mitigating circumstances. The mission of the China Springs Youth Camp and Aurora Pines Girls Facility is to provide a program of youth development based on psychosocial principles of adolescent growth. The objective is to teach residents to become more responsible persons.

The basic philosophy of the camps is accountability. The youth development program includes a personal growth treatment plan, parental partnering, counseling for substance abuse, secondary/special education, cognitive behavioral therapy, mental health and delinquency counseling as well as physical activity.

Candidates are accepted from throughout the State of Nevada with the exception of Clark County, which has its own facilities. Funding is received from the State, 16 Counties, grants, and service clubs.

At each visit, the members of the committee came away with admiration and appreciation of the organization and administration of these facilities. The members were especially enthusiastic about the line staff that is providing the various programming opportunities to juvenile offenders. These programs

- appear to be well-conceived and implemented by dedicated staff members.
- appear to have a genuine positive impact on recidivism.

Recommendations

- The 2007/2008 Grand Jury recommends that the juvenile facilities consider certification of organizations and individual staff members through the American Correctional Association (ACA).
- The Grand Jury also recommends that the Sheriff's Office continue to pursue vigorous recruiting.

EMERGENCY MANAGEMENT COMMITTEE

The 2007/2008 Grand Jury did not receive any complaints regarding the Douglas County Information Systems (I/S) Department. However, in the course of the Emergency Management Committee's investigation, the following concerns were voiced:

- Infrastructure design and support
- Software support
- Communication/Planning
- Training/Education

The whole picture for Douglas County government has changed greatly over the last decade with respect to computers and computer networks. These two items are critical to performing jobs and form the backbone for daily operations. Access to networks, files, servers, internet, e-mail and software are essential in performing daily job duties.

The primary concentration of I/S is that, at all times, the systems are operable.

Control and responsibility for the infrastructure should be centralized under one department, to be the most efficient. User set-up and maintenance, disaster recovery, data back-up, and licensing are examples of functions that are most efficient when they are centralized.

On the other hand, laptops connecting remotely, telecommuting work, and some State or Federal mandates on connections are examples of computer functions that may be more efficient, if they are not under central control. Each situation requires set standards that need input from both Information/Systems and users to insure proper security.

There is a significant lack of discussion with users on what the infrastructure is or how it works. Sharing knowledge up-front is the best way to stop small issues from becoming big issues.

Common problems with infrastructure are:

- The time required to get a new employee a log-in name, password and an e-mail account
- The time required to remove access of any terminated employee

Software evolves and changes rapidly to meet the specific needs of the users. The support for department specific software must fall to each department itself. Critical software issues for different departments may vary greatly. It is completely nonfunctional to try and support today's wide variety of applications from a centralized I/S perspective.

There are often Federal, State or County mandates driving a departments' software decision. It should be the responsibility of each department to know and monitor its needs. Each department should have a direct say in how support is provided. The employees providing that support should also have a direct say in the process.

These investigative findings are specific to the County I/S Department, not the Court's Computer System, as the Court's System is maintained independently.

Recommendations

The 2007/2008 Grand Jury makes the following recommendations:

- 1) Form an Information Technology Committee comprised of elected county officials and department heads, who would review and prioritize the needs throughout the County. This provides a buy-in for all parties and everyone shares in the planning and success of each project. Departments need to be involved in long range planning and made aware of infrastructure developments being planned as well as communicating their own specific I/S needs.
- 2) Improve communication by developing a more positive and open-minded attitude to work for the betterment of all users. The County's numerous computer systems and networks belong to all the citizens of Douglas County. The goal should be to provide an efficient and consistent service.
- 3) Information Systems should issue a bulletin twice a year to include:
 - recommended standards for computers used by departments
 - recommended memory
 - disk size
 - base software
- 4) User work requests should receive an acknowledgement for service. The "Track-It" system needs to respond to work orders and an estimated time to resolve the problem should be given.
- 5) Departments should have more input into their specific I/S requirements.
- 6) Advance notice must be given when infrastructure changes will occur.

COMMUNITY GENERATED COMPLAINTS

17 complaints were received from community members during the tenure of the 2007/2008 Grand Jury. All but one of the complaints were properly signed, notarized and submitted on a legal form designed for the purpose.

Announcements regarding the forms and their locations were published in the local newspapers. Each complaint was acknowledged by a written response from the secretary, thanking the complaint writer for participating in the process. After empanelment of the Grand Jury, complaints were accepted until January 31, 2008.

All of the complaints submitted were reviewed. Recommendations follow in this report.

Committees were formed, consisting of five or more members, and each committee elected a chairperson and secretary. The findings of the various committees were reported to the Grand Jury as a whole.

GRAND JURY

Complaints:

- #1 - concerning Douglas County Sheriff's Department - p.12
- #4 - concerning Douglas County Public Administrator - p.12
- #9 - concerning Douglas County District Attorney's Office - p.13
- #15 - concerning Douglas County Public Administrator - p.14

COMMUNITY SERVICES COMMITTEE

Complaints:

- #5 - concerning Carson Valley Swim Center -p.15
- #7 - concerning Town of Minden Water Company -p.16
- #10 - concerning Zephyr Water Utility District -p.19
- #11 - concerning Zephyr Water Utility District -p.21
- #13 - concerning Gardnerville Ranchos General Improvement District -p.23

COMMUNITY DEVELOPMENT COMMITTEE

Complaints:

- #2 - concerning Skyline Ranch Subdivision -p.26
- #3 - concerning Foothill Road structure -p.27
- #8 - concerning Riverwood, LLC -p.27
- #17 - concerning County Budget -p.30

AIRPORT COMMITTEE

Complaints:

- #14 - concerning Weight Ordinance -p.31
- #16A - concerning Low Flying Aircraft over Pleasantview subdivision- Gardnerville Ranchos -p.32
- #16B - concerning Weight Ordinance

EMERGENCY MANAGEMENT COMMITTEE

Complaints:

- #6 and #12 - concerning Communications/911 Department -p.34

COMMUNITY GENERATED COMPLAINTS BY COMMITTEE WITH RECOMMENDATIONS

GENERAL GRAND JURY

#1 - concerning Douglas County Sheriff's Department

Summary of Complaint

This complaint alleged misconduct by a county officer or employee in the context of a 1997 incident.

The 2007/2008 Grand Jury sent a letter signed by the secretary to the complainant stating that the complaint was received.

Description of Investigative Findings

The complaint had been submitted to the prior Grand Jury and also referred to the office of the State Attorney General. After reviewing the information, this Grand Jury did not find any new facts or issues.

Recommendation

The 2007/2008 Grand Jury does not have any recommendation regarding this complaint.

#4 - concerning Douglas County Public Administrator

Summary of Complaint

This complaint was not submitted on the correct form..

Description of Investigative Findings

The complaint was submitted on an "Order Appointing Permanent Guardian of Person and Estate" document and included handwritten notes all over the photocopied document. As such, the nature of the complaint was unclear.

A letter, signed by the Grand Jury secretary, was mailed to the complainant indicating that the complaint must be resubmitted on a Grand Jury Citizen's Complaint Form, clearly stating the issue the Grand Jury is asked to consider, and what resolution is being sought. The complaint form must also be notarized.

This complaint was not resubmitted by the complaint deadline of January 31, 2008.

Recommendation

The 2007/2008 Grand Jury does not have any recommendation regarding this complaint.

#9 - concerning Douglas County District Attorney's Office

Summary of Complaint

The complaint asked the Grand Jury to investigate why the Douglas County District Attorney's office failed to make an arrest in the case of burglary and possession of stolen property.

Specific Action Requested

- The complainant wanted the District Attorney to allow the Sheriff's Department to arrest the people responsible for the burglary.
- The Grand Jury is asked to review the case and find out if the situation represents discriminatory or selective prosecution by the District Attorney's office.

Description of Investigative Findings

The Grand Jury questioned the Deputy District Attorney and the Investigator assigned to the case from the Sheriff's Office. The Deputy District Attorney told the Grand Jury that he worked closely with the Investigator on this case.

Valuable items were stolen when the complainant's home and safe were broken into. The complainant suspected four persons as the burglars, but a positive identification of who was in the home at the time of the burglary or who took the items could not be made. Some of the stolen items were subsequently found at a pawnshop in Carson City, and that matter is still under investigation. Some other items were returned to the victim. The Sheriff's Investigator followed all leads to make sure that this was not a discriminatory case.

This is an open investigation with insufficient evidence to make a charge in the case due to the following reasons:

- None of the young adults questioned admitted to the burglary and all told inconsistent stories.
- All of the young adults questioned claimed knowledge of the burglary, but denied personal involvement.
- Fingerprints found at the burglary site were unusable because the prints were not clear and distinct.
- Based upon the investigation by the Sheriff's Office, there was not sufficient evidence to seek any arrest warrants.

The Deputy District Attorney met with the victim and advised that, in order to bring a case to trial the DA's office needs a reasonable probability of conviction with evidence that is admissible in court. Unfortunately, all current leads had been exhausted. He made it clear to the complainant that the District Attorney's office takes the case seriously and that every effort will be made to pursue the case.

The Deputy District Attorney explained to the Grand Jury and to the victim that the evidence presented to him was currently insufficient, and he did not view any of the suspects as being credible enough to use to build a case concerning the others. However, it is still an open case with the Sheriff's Office Investigations Division.

Recommendation

The 2007/2008 Grand Jury does not have any recommendation regarding this complaint.

#15 - concerning Douglas County Public Administrator

Summary of Complaint

The Grand Jury should look into fees charged by the Public Administrator and her attorney. The complainant is a first-time participant in a probate action and found the process very confusing.

Specific Action Requested

On a general level, the complainant wants the Grand Jury to create more accountability by the Public Administrator to families who request her assistance. More specifically, the complaint questions the disposition of a Mercedes automobile and a motor home in an estate being handled by the Public Administrator.

Description of Investigative Findings

The District Attorney was interviewed. He gave an overview of Title 12, which deals with wills and estate summaries, and explained the role of the Public Administrator, an elected office. Regarding the specific disposition of the motor home and Mercedes, he stated that no record of ownership could be proven; the Department of Motor Vehicles did not have registration listed in the deceased's name in Douglas or Clark counties. No evidence of wrong doing on the part of the Public Administrator or her office was found.

Recommendation

Since the specific estate involved in this complaint was still in probate, the 2007/2008 Grand Jury recommended that the complainant address her concerns directly to the court prior to the final accounting and distribution. A letter, signed by the secretary, was mailed to the complainant.

COMMUNITY SERVICES COMMITTEE

#5 - concerning Carson Valley Swim Center (CVSC)

Summary of Complaint

The complaint alleges that respiratory distress was suffered as a result of improper regulation of chemical standards at the Carson Valley Swim Center (CVSC). The complaint further alleges misuse by CVSC staff of funds received from patrons of the CVSC.

Specific Action Requested

Claimant requested that the Grand Jury:

- Inquire into the procedures to maintain the pools
- Investigate alleged discrimination against patrons of the CVSC
- Audit the financial records of the CVSC to identify any potential financial wrong-doings on behalf of the staff and/or administration of the CVSC.

Significant Issues Raised by the Complainant

- Does the CVSC maintain chemical balances according to approved standards?
- Does the CVSC keep appropriate records of documentation in relation to those standards being followed?
- Is there any evidence that the CVSC is violating health department standards?
- Are there any irregularities in the monetary handling of operations at the CVSC?

Description of Investigative Findings

Members of the Community Services Committee reviewed the records on chemical pool balance for the prior six month time period. The record-keeping was very extensive and consistent, with no apparent gaps, and all chemical ranges were within acceptable and established levels.

Although individual sensitivity to chemicals can vary, the committee found that Carson Valley Swim Center has maintained pools within acceptable health department standards. Furthermore, the Board of Directors of the CVSC has made strides to continually improve the environment at the Swim Center through upgrades to ventilation and sanitation systems.

A major renovation of the Carson Valley Swim Center ventilation system was completed in the Spring of 2006. Additionally, installation of an ultraviolet sanitation system was completed in December 2007, significantly reducing the need for chemicals that were required prior to this upgrade.

All of these upgrades have occurred since the original date of the complainant's alleged injury.

The Community Services Committee also reviewed the Health Department Inspection Report that occurred as a result of the complainant's concern. This Report dated August 28, 2003, did not find any fault. All areas of the CVSC met or exceeded Health Department standards.

Investigation of financial records did not reveal any irregularities. To the contrary, the committee commends the Carson Valley Swim Center for operating successfully under the scrutiny of the public eye. All of the bookkeeping of the CVSC was reviewed and the financial statements were prepared by a local, independent, and reputable CPA firm.

Description of Investigative Findings (Complaint #5 cont.)

Although the CVSC is a publicly funded, community facility, the staff and management may reserve the right to refuse service to any patron that they view as being disruptive to the general atmosphere and enjoyment of other patrons. This committee did not find any evidence that the staff of the CVSC practices discrimination.

We encourage the Board of Directors of the Carson Valley Swim Center to be diligent in its service and continue to make improvements to the CVSC. This commitment will only further enhance the experience for all facility patrons.

Recommendation

The 2007/2008 Grand Jury does not have any recommendations regarding to this complaint.

#7 - concerning The Town of Minden Water Company

Summary of Complaint

Complainant believes that the water rates charged by the Town of Minden Water Company to their Home Owners Association (HOA) are unfairly and significantly higher than equivalent rates charged by other local Water Districts such as Gardnerville Ranchos General Improvement District (GRGID) and Gardnerville Water Company.

The complainant further expresses concern over the increase in stated Capital assets shown to be held by the Town of Minden Water Company from the Budget year 2006.

Specific Action Requested

- Complainant asks that the Grand Jury investigate water and usage rates charged by the Town of Minden Water Company
- Examine the justification for recent imposed rate increases and their effects on the increase in Capital assets held by the Town of Minden Water Company.

Significant Issues Raised by the Complainant

- What are the rates currently being charged by the Town of Minden Water Company?
- Are the rates being charged fairly and equally to the end users?
- Is there justification for the increase in Capital assets held by Town of Minden Water Company?

Description of Investigative Findings

The Town of Minden Water Company *is not* operated by Douglas County, or under control of the Douglas County Board of Commissioners. It is an independent government entity operating under the rules of an Enterprise Fund. An Enterprise Fund is operated, maintained, and improved strictly from the fees paid by the end users. (A more detailed explanation of an Enterprise Fund is provided in the response to complaint #11).

Comparison of rates done by the complainant was found to be inequitable. Open space/common area irrigation is considered commercial use; thus, the Town of Minden Water Company is charging the complainant commercial rates. The complainant compared their commercial rates with residential rates of

Description of Investigative Findings (Complaint #7 cont.)

GRGID and Gardnerville Water Company, essentially comparing an apple to an orange. We will attempt to draw a more equal comparison using current commercial rates from Town of Minden Water Company and the Gardnerville Water Company.

The current Town of Minden Water rates being charged to the complainant are in line with the 2007 published rates established by the utility. They are as follows:

Town of Minden Water Company rates published July 2007

Commercial metered water rates:

- \$1.45 per 1,000 gallons for first 50,000 gallons
- \$1.60 per 1,000 gallons up to 100,000 gallons
- \$1.76 per 1,000 gallons for anything over 100,000 gallons

There is a monthly base rate depending on the line size:

(estimating that the complainant has a 2" line)

2 inch line: \$58.45 monthly

Current Gardnerville Water Company rates published April 2004

Commercial Customer Base Rate:

2 inch line: \$32.00 bi-monthly (every other month)

Commercial Customer Usage Charge:

- \$1.11 per 1,000 gallons for first 20,000 gallons
- \$1.56 per 1,000 gallons over 20,000 gallons

To make a fair and easily understandable comparison, we've created an example that assumes a commercial rate, 2 inch line, using 100,000 gallons per month. The charge to the rate payer for one month from each utility would be:

Town of Minden Water Co.: \$210.95 per month
 Gardnerville Water Co.: \$163.00 per month

Town of Minden rates, in this same service comparison, are approximately 22% higher than Gardnerville Water Co.

The complainant also expressed concern that rates charged by Town of Minden Water Co. have increased significantly in recent years. In comparing the last three published rate schedules, we can see the rates relative to the same service example noted above. (commercial, 2" line, 100K gal.)

Year	Total Charge for example	% Increase over previous year
2005	\$ 197.05	n/a
2006	\$ 204.25	3%
2007	\$ 210.95	3%

The 3% annual increase within the district appears to be reasonable when compared with Federal Cost of Living Adjustments (COLA) that were 4.1% in 2006 and 3.3% in 2007.

Description of Investigative Findings (Complaint #7 cont.)

In total, the retained cash shown by Town of Minden as of June 30, 2007 was approximately \$4.4 Million. This retained cash will be used to fund capital improvement projects. These projects are forecast over the next several years to be \$3.5 Million in fiscal 2008/2009, and \$5.4 Million in fiscal 2009/2010. Although there are no specific requirements, individual enterprise funds may also establish specific reserves. These reserves are typically based on a rate study.

A fairly significant increase in assets on hand of almost \$400,000 was noted in the complaint. This increase is a direct result of sales of water rights from Town of Minden Water to developers who were required to purchase water rights with their projects.

The complainant states that "future capital should be charged to future users/developers that have obviously caused the need for the capital expenditures". This statement is a bit short sighted in that it assumes that capital expenditure is only for future development, rather than for upkeep of existing infrastructure.

There is an extensive proposed capital improvement budget created by Town of Minden Water Company. It is the philosophy of the Town of Minden Water Co. to take a proactive, rather than a reactive, approach to improvements within their utility district. It seems a prudent way to conduct business so that the general functioning of the utility district is kept in good repair.

Anticipated problems can be addressed, budgeted for, and handled before they spiral into emergency situations, which can be very costly to the rate-payers. The rate-payers of this utility district may wish to be thankful for this forward thinking and responsible approach.

The Grand Jury's investigation did not find any wrongdoing or mismanagement on the part of the Town of Minden Water Company. Our findings did confirm that the Town of Minden's water rates are higher than other local utility districts. The guidelines, under which the utility operates (Enterprise Fund) however, specify that the rate-payer fees are the method by which all administration, maintenance, operations, repairs and improvements are funded.

It must be understood that each utility district has its own unique budgetary and planning conditions which must be met by its rate-payers. There is not any requirement that there be consistency from one utility district to the next; only that each utility district be self-funded through the Enterprise Fund guidelines.

It is the responsibility of the Minden Town Water Company Board to set water rates as necessary for the financial health of the utility district.

Recommendation

The 2007/2008 Grand Jury does not have any recommendation regarding this complaint.

#10 - concerning Zephyr Water Utility District (ZWUD)

Summary of Complaint

The complaint alleges that Douglas County Board of Commissioners, acting through the Douglas County Water District (DCWD), inappropriately and without proper authorization used Zephyr Water Utility District (ZWUD) funds to install radio telemetry water meters and associated equipment in the Lakeshore Blvd area of Marla Bay.

Specific Action Requested

- The 2007/2008 Grand Jury is asked to determine if there was an improper or questionable expenditure by Douglas County of ZWUD funds
- Take the appropriate action based upon that determination.

Significant Issues Raised by the Complainant

- Under what authority did DCWD install water meters in Lakeshore Blvd?
- How was the installation of the meters funded?

Description of Investigative Findings

In May 1999, Douglas County Community Development Department prepared the "Water Conservation Plan for Douglas County Water Services Area in the Lake Tahoe Basin." Within this Plan, water conservation guidelines were established:

In August of 1998, the Environmental Protection Agency (EPA) published its Water Conservation Plan Guidelines as mandated in the reauthorized Safe Drinking Water Act Amendments of 1996. The guidelines are voluntary for utilities to use when preparing a water conservation plan. The law required EPA's guidelines to take into account the system size, water availability, and climate. The EPA guidelines recommend that small water systems serving 10,000 or fewer people implement, at a minimum, the following measures:

- *Public Education*
- *System Management*
- *Metering*
- *Costing and Pricing*

Based upon witness testimony, we learned that the Douglas County Board of Commissioners, acting as the Douglas County Water District, has an unwritten (and therefore unofficial) policy to install water meters during selected capital improvement projects. This unofficial policy aligns Douglas County with the Water Conservation Plan.

Water meters are installed when the capital project is one that allows ease in the installation as a part of the project. The water meters are not active (or read for rate billing purposes) at this time and will not be until all of the end users within the selected system are on meters and, thus, can be billed with an equal rate structure.

Each of the Water Districts operated by Douglas County is operated as an Enterprise Fund. (To see a full definition of Enterprise Fund, refer to Complaint #11). In the case of Lakeshore Blvd, the water delivery system required extensive capital improvements.

Description of Investigative Findings (Complaint #10 cont.)

During the initial investigation by the Community Services Committee, the former County Manager stated that the capital improvement at Lakeshore Blvd was completed with an AB 198 Grant, and that the water meters were installed as a condition of that grant.

A conflict in information became apparent when the Committee learned from the former Douglas County Engineer that the capital improvement at Lakeshore Blvd had been paid for with construction reserves from the ZWUD Enterprise Fund. Although it has not been uncommon for grants to be obtained for water district capital improvements, no grant money was, in fact, used for the specified project. It was verified by the committee that the Lakeshore Water Main Replacement and subsequent installation of water meters was capitalized as a water and sewer system asset with an actual cost to ZWUD of \$367,212.00.

The water line replacement was identified in the County's Capital Improvement Program for implementation in fiscal year 2005/2006. It is the right and responsibility of each Utility District to:

- set its own capital reserves
- initiate the capital improvements necessary to maintain the system
- address government policies and mandates.

In keeping with the nature of an Enterprise Fund, the reserve amount is set aside from money paid by the end users through their billed rates.

Based upon the FY 2006/2007 ZWUD Rate & Charge Study, the Capital Reserve account has a target funding level of 2% of the total original cost of utility fixed assets.

It seems prudent, in the management of our natural resources and for success of Enterprise Funds' financial health, that water meters be installed and utilized when possible and advantageous. While the installation of water meters is the right of the Utility District, there has been an obvious failure of communication as to the "unwritten policy" of the Douglas County Board of Commissioners to eventually place water meters on all water supply lines.

Upon thorough review of the correspondence, documentation, and interviews, we believe there was no improper action taken with regard to the installation of the water meters in the Lakeshore Blvd area.

However, it was surprising and disappointing that two very different sources of funding for this project were presented to the Committee. The Douglas County Water District has the ultimate authority over ZWUD. There was a failure of understanding between the County and ZWUD. It is of concern how the former County Manager came to believe that grant money was used to pay for a capital improvement project that actually cost over \$300,000 to the rate payers of ZWUD.

Recommendations

The 2007/2008 Grand Jury recommends that the Douglas County Board of Commissioners and the County Manager:

- review project management funding with the Douglas County Water District, and utility districts under their authority,
- work to improve communication to the system rate-payers.

When the Douglas County Board of Commissioners requires installation of water meters, it is our recommendation that they develop formal written policies and procedures to inform the public of the circumstances under which major capital improvements will lead to the implementation of meters.

#11 - concerning Zephyr Water Utility District (ZWUD)

Summary of Complaint

The complaint alleges that in 1997, the Douglas County Board of Commissioners transferred \$100,000 from the Zephyr Water Utility District (ZWUD) to the Uppaway Water Utility District (Uppaway) Enterprise Fund via Douglas County's 210 Fund. It is alleged that this transfer was unauthorized and a possible misappropriation of funds that belong to (and should be returned to) the ratepayers of ZWUD.

Specific Action Requested

- Determine if there was any wrongdoing in the transfer of \$100,000.00 from ZWUD to Uppaway.
- Based upon that assessment, make recommendations to correct it.

Significant Issues Raised by the Complainant

- Did the Douglas County Board of Commissioners transfer \$100,000 from ZWUD to Uppaway?
- Were the funds transferred to or from the rightful entities?
- Were the transfers appropriate and legal?

Description of Investigative Findings

In order to clarify the findings, we have included definitions of "Enterprise Fund" and a "210 Fund".

Enterprise Fund: According to statute, an Enterprise Fund is a fund established to account for operations:

1. Which are financed and conducted in a manner similar to the operations of private business enterprises, where the intent of the governing body is to have the expenses (including depreciation) of providing goods or services on a continuing basis to the general public, financed or recovered primarily through charges to the users; or
2. For which the governing body has decided that a periodic determination of revenues earned, expenses incurred and net income is consistent with public policy and is appropriate for capital maintenance.

An example of an Enterprise Fund within Douglas County includes water and sewer utility districts managed by Douglas County. These utility districts are operated, maintained and improved strictly from the fees paid by the end user (the rate payer). Establishment of Enterprise Funds is the responsibility of the Douglas County Board of Commissioners.

210 Fund: is a special revenue fund as defined by statute. A special revenue fund means: a fund used to account for specific sources, other than sources for major capital projects, which are restricted by law to expenditure for specified purposes.

On July 25, 1989, the County Board created the Douglas County Water District (DCWD) by approved Ordinance No. 496. The stated purpose of the Douglas County Water District was:

- *to plan, construct, maintain, and operate waterworks and*
- *to obtain water and water rights for the benefit of the district*

Description of Investigative Findings (Complaint #11 cont.)

Pursuant to NRS, the DCWD was funded through Douglas County's 210 Fund. The specific sources of revenues that were going into the fund were from a 7 cent property tax. (This tax has not been levied since 1997)

The Zephyr Water Utility District (ZWUD) and Uppaway are both Enterprise Funds managed by Douglas County. ZWUD was established, as such, by Resolution 89-08 on January 19, 1989 by the Douglas County Board of Commissioners.

At the time the ZWUD was established, extensive capital improvements and maintenance were needed to the ZWUD treatment and pumping facility. Being established as an Enterprise Fund, ZWUD's Directors had concerns that they would be unable to pay for the needed improvements solely through income from the rate payers. They requested, and were awarded financial assistance from the Douglas County Water District (210 Fund) for completion of capital improvements. This financial assistance was for \$100,000 and made directly from Douglas County Water District (210 Fund) to ZWUD (an Enterprise Fund).

When the anticipated capital improvements were completed, the costs to ZWUD came in under budget. At that point it was evident that the funds from DCWD were not needed to complete the project after all. Consequently, the Douglas County Board of Commissioners chose to withdraw the unused funds from ZWUD and transfer them to the Uppaway for anticipated capital improvements to their water system.

On June 11, 1996, the Board of County Commissioners discussed the DCWD and the 210 Fund (7 cent tax) in great detail. Part of their analysis provided that:

The district could enter into a cooperative agreement with the county to administer a waterworks and resources-related grant program for private, non-profit water purveyors in accord with NRS 244.1505. Expenditure of these tax revenues is primarily a legislative priority or policy matter, not a legal matter. Here the statutory constraints within which these expenditures decisions are to be made are quite broad.

It is through this language that the granting of funds to ZWUD initially was established.

By definition, the 210 Fund moneys "are restricted by law to expenditure for specified purposes." It is through this language that we believe that the 210 Fund money was awarded to ZWUD for the specified capital improvements. When the 210 Fund money was not, in fact, needed for the specified purpose, it was returned to the County.

The complainant makes reference to the \$100,000 being taken inappropriately from the rate payers of ZWUD. Although ZWUD does operate as an Enterprise Fund, and typically all improvements and maintenance are paid for by the rate-payers via user fees, a unique situation arose in this case. The \$100,000 was not from the Enterprise Fund directly via the rate-payers, but from the Douglas County 210 Fund – therefore technically making it the contribution of all Douglas County residents who paid the 7 cent property tax during that period of time. Upon thorough review of the financial audits, specific transactions, ordinances, Douglas County Board of Commissioner's meeting minutes, and additional documentation, we believe that there was no wrong doing. We also believe that the 210 Fund money was correctly distributed by the Douglas County Water District in regards to Zephyr Water Utility District and Uppaway.

It appears that the 210 Funds were used appropriately for their intended purpose, which is to serve the needs of the entire Douglas County Water District.

Recommendation (Complaint #11)

The 2007/2008 Grand Jury does not have any recommendation regarding this complaint.

#13 - concerning Gardnerville Ranchos General Improvement District (GRGID)

Summary of Complaint

The complainant alleges inconsistent and unfair application of Gardnerville Ranchos General Improvement District (GRGID) policies and procedures concerning development and construction standards. The complaint further alleges questionable professionalism on the part of GRGID management towards the Rocky Terrace Estates, LLC (RTE) in the development of Rocky Terrace Estates.

Specific Action Requested

- Complainant requests that the Grand Jury review GRGID's development guidelines and apparent ambiguity regarding GRGID's policies and procedures for standard application to all new projects being proposed and developed within their jurisdiction.

Significant Issues Raised by the Complainant

- RTE alleges incomplete reimbursement of upgrades to Well #9 as identified in the Annexation Agreement.
- Was the District correct in denying the proposed annexation amendment applied for by RTE in regard to the number of prepaid sewer and water hook-up fees?
- Was the process for receiving certificates of occupancy handled correctly with regard to RTE's properties and consistent with Community Development guidelines?
- What is the District's policy for transferring prepaid hook-up fees within a development?
- Is there justification for the GRGID's refusal to accept changes to curb construction and maintenance within RTE?

Description of Investigative Findings

General Improvements Districts (GIDs) are formed by law and serve a specific community area for a specific purpose. The GID board members make decisions affecting the health and welfare of the community.

Rocky Terrace Estates, LLC purchased 36+ acres from a private party, who negotiated the annexation of the land into the GRGID. RTE is bound by the terms of the agreement, as stated in the original document, which would allow RTE to connect to GRGID's water and sewer system.

The agreement also states RTE was required to drill Well #9 and construct a sewage lift station in order to meet the requirements of the development. RTE also agreed to upgrade the Well at the GRGID's request, who would then reimburse for the additional cost. It was GRGID's view that the agreement referred only to pay for the requested increase pumping capacity of the Well. RTE also upgraded several other items that were not required to increase the pumping capacity.

RTE presented to GRGID, a bill for \$123,000.00. At the advice of the GRGID's consulting engineer, a compromise was mutually agreed upon and RTE accepted \$65,000.00 for the requested upgrades, thereby resolving the issue.

Description of Investigative Findings (Complaint #13 cont.)

The Annexation Agreement states the RTE would be allowed prepayment up to 20 water and sewer hook-up fees before completion of the Well and lift station or the dedication to GRGID. Payment of hook-up fees is a requirement of Douglas County in order to obtain building permits. The maximum number of 20 hook-ups was selected based on the available water capacity that the District could supply until Well #9 was on line.

RTE later requested an amendment to the Annexation Agreement to allow for prepayment of hook-up fees for the entire development. RTE felt that the Certificate of Occupancy (C of O) for newly constructed homes could be denied in the event Well #9 and lift station were not operational.

The GRGID Board of Trustees, at a public meeting held March 1, 2006, heard the proposed amendment. At that time, the District Manager recommended the amendment be denied based upon the existing requirement of the GRGID to provide water capacity to the project. The District Manager felt such a situation could place the homeowner in an unfortunate circumstance without approved sewer and water service. It could also place other district users at risk. The Board of Trustees denied the request for an amendment.

The Grand Jury discovered, in the course of its investigation, that Douglas County Building Division had issued a Certificate of Occupancy for a residence in Rocky Terrace Estates without GRGID's final inspection. The inspector, who was new to the county, did not understand the policy that required GRGID to conduct a final inspection before the county issues a C of O. In this case, the homeowner was shocked to find a notice at their new home with the statement that their water and sewer service may be terminated. RTE and the Douglas County Building Division can share the blame for this instance.

RTE is at fault for not properly informing the homeowners of the requirements to request continued water service from the GRGID. The builder should have assisted the homeowner through this process.

The Building Division bears blame for not properly training new inspectors as to District policies, before putting them in a position to make decisions with weighted consequences. In this case, it was an issuance of a C of O without the proper inspections being completed by the GRGID.

The committee reviewed the District's policies and procedures on transferring hook-up fees from one property to another. According to the District Manager of GRGID:

The District does not have a written policy for transferability of water and sewer connection fees and permits, as they are not transferable. The only manner in which the permits can be applied to another parcel within the District is:

- *for the applicant to surrender the permit by supplying the District with the pink copy of the connection permit*
- *have the District cancel the permit by internally voiding the connection permit*
- *having a District employee verify that there has been no construction, connection, or building permit assigned to that address*

Then the District will refund the applicant's fees associated with the connection permit.

Description of Investigative Findings (Complaint #13 cont.)

Based upon our investigative findings, we do not believe that the complainant offered, at any time, to surrender any pre-paid water or sewer connection permits in order to re-apply for another connection permit for a different lot. It appears the complainant hoped to avoid this procedure by performing a straight transfer, which (as discussed above) is not possible in accordance with GRGID policy.

Additionally, the complainant felt that GRGID treated them unfairly by requiring that they install a specific style of curbing throughout the subdivision. According to the GRGID Policy and Procedures Manual established November 1994:

...Curb and Gutter shall be Type 1. Type 2 Curb and Gutter (rolled curb and gutter) will not be allowed.

The complainant refers to curb standards within Douglas County. It is well within the authority of GRGID to enforce its written policy and require the developer to install the Type 1 curb. Due to the complainant's perceived difficulties with GRGID, an attempt was made to circumvent District policy in favor of County Standards.

Unfortunately for the complainant, Douglas County does not have jurisdiction over infrastructure requirements within the GRGID. Under the policy of Type 1 curb installation, GRGID maintained that the sidewalks are in the public right-of-way and the responsibility of the adjacent property owners. According to GRGID policies and the advice of their consulting engineer, the request by RTE that the GRGID accept the maintenance of the sidewalk area in the subdivision was denied.

During this investigation, it was difficult for the Committee to separate out the ill feelings and emotion between RTE and the GRGID to get to the facts. It is quite evident that both sides were disgruntled. There may have been verbal misunderstandings or miscommunication between both parties. It is prudent to conduct business based upon written policies and procedures as well as mutual agreements between the parties. Use of policies and agreements in this manner will encourage clear communication and consistent professional behavior.

Recommendations

The 2007/2008 Grand Jury recommends that the County Building Division review its training procedures for new inspectors in an effort to coordinate shared responsibilities with Improvement Districts.

This Grand Jury also recommends that GRGID and the County avoid verbal agreements between parties and ensure that agreements be in writing so there will not be any miscommunications.

COMMUNITY DEVELOPMENT COMMITTEE

Complaint #2 - concerning Skyline Ranch subdivision

Summary of Complaint

The complainant believes that developers and County Departments did not follow proper procedures and requirements for the Skyline Ranch Estate development.

Specific Action Requested

- Require the Douglas County Commissioners, District Attorney, Planning Commission, Community Development Department, County Engineer, and Building Division to enforce County Codes
- Correct the deficiencies and failures for Skyline Ranch Phase 1, 2, 3 developed by Syncon Homes.

Significant Issues Raised by the Complainant

- Were procedures for conditions of approval on Skyline Ranch permits followed?
- Did the developer, Syncon Homes, meet all of the agreements concerning the development?

Description of the Investigative Findings

Members of the 2007/2008 Grand Jury visited the site on several occasions. Agreements between county and developer were reviewed as well as numerous maps, drainage and hydrology reports, grading and drainage plans. The Grand Jury also examined the findings presented to the Board of Commissioners at its September 7, 2006 meeting.

The Community Development Committee paid special attention to Downs Drive shown as a through street on the final subdivision maps. Yet, it is incomplete. The vertical grade of the site is too steep to meet county code requirements for a road. It is a concern why the problem was not identified at the beginning of the project design. This should have been reflected on the final maps. However, the impact on the affected residents is minimal because each home is accessible by a paved road.

Drainage in the area is also a concern. The Homeowners Association has to ensure drainage basins and easements on individual lots are maintained.

Although some decisions by the developer, such as the size of culverts, were not prudent, they were within the codes followed by the county at that time.

While there were some minor discrepancies between the tentative map, final map, and as-built condition of the Skyline Ranch development, the Grand Jury did not find any significant issues or wrong doing on the part of Douglas County.

It would appear that developers often get by with the minimum requisite. Homeowners have the right to expect better.

Recommendation

The 2007/2008 Grand Jury does not have any recommendation regarding this complaint.

Complaint #3 - concerning Foothill Road structure

Summary of Complaint

A warehouse was constructed in a residential neighborhood. This building should have had a set-back of 30 feet but is only 6 feet away from the complainant's property front. The prior Grand Jury (2000/2001) concluded that indeed the building did not conform to Douglas County Code. Neither District Attorney nor County Commissioners took action toward the complaint after the prior Grand Jury report.

Specific Action Requested

- Require that the Douglas County Building Division enforce its own codes.
- The building be brought into compliance with the required set-back.

Significant Issues Raised by the Complainant

Was the prior Grand Jury's recommendation ignored?

Description of the Investigative Findings

The Grand Jury reviewed the complaint and the previous Grand Jury's report. The last Grand Jury revealed the mistake of the Community Development Department, but did not request that the building in question be brought into compliance. It is regrettable that a permit was issued to build in that location, but the Grand Jury does not have a remedy.

The Grand Jury did not find any new issues or items that warrant action.

Recommendation

The 2007/2008 Grand Jury does not have any recommendation regarding this complaint.

Complaint #8 - concerning Riverwood, LLC

Summary of Complaint

This complaint has 5-parts:

- Part 1 concerns the County Comptroller's office and alleges a lack of clarity in the Redevelopment Agency (RDA) accounting.
- Part 2 addresses the County's outstanding loan to the Redevelopment Agency. The complainant believes the interest rate is inadequate, potentially causing a risk of default therein.
- Part 3 accuses county officials of making misleading statements regarding the Ownership Participation Agreement (OPA) that would require installments totaling \$24.7 Million to Riverwood, LLC over 16 years.
- Part 4 concerns the Douglas County Planning Commission's minutes of the August 14, 2007 meeting and asks the Grand Jury to determine the propriety and legality of the minutes.
- Part 5 addresses the lack of transparency in accounting principles to the citizens of Douglas County for the \$24.7 Million to be paid to Riverwood, LLC, per the OPA.

Specific Action Requested

- The Riverwood, LLC Owner Participation Agreement, dated November 5, 2007, should be voided as illegal.
- A county ordinance prohibiting payments for any reason other than for explicit identifiable benefits should be required.

Significant Issues Raised by the Complainant

- Is the RDA working in a counter-productive manner with Douglas County?
- Is the OPA legal and can it be voided?

Description of the Investigative Findings

The Grand Jury reviewed the development agreement between Riverwood, LLC and Douglas County. RDA budgets, map of the RDA areas, Charter of the RDA and statutes governing that agency were also reviewed. Some County Commissioners, the prior and interim County Managers and the District Attorney were questioned regarding this matter. Redevelopment is a process created to generate reconstruction and rehabilitation.

The Redevelopment Agency is not a separate agency, but part of Douglas County. Revenues for the RDA are generated by the increase in property values or tax increment, as the result of improvements to the district. As property values in the project area increase, the values in excess of the base year become the incremental assessed value. The tax increment revenues are the funds used to pay for the OPA. In the case of Riverwood, LLC, the intent is to generate financial revenues.

The Commissioners and County Manager recognize the benefits of the Redevelopment Agency. It is a good tool to stimulate commercial investment and enhance an area. Endeavors such as the Riverview Sewer Project, purchases of easements for the West Valley Water System development and school improvements are examples of RDA successes. Developers have a right to build within the Master Plan. It is the obligation of the Board of County Commissioners to uphold the Master Plan.

The County Manager and his staff generate proposals, but proposals have to be approved by the County Commissioners who oversee the RDA. The District Attorney's office only supervised the legality of the document. In the case of Riverwood, LLC, it seems that the prior Douglas County Manager established the OPA in the race to solicit developers. Perhaps, a sense of competition with Carson City and a pro growth stand from some in the County rushed the agreement in favor of the developer.

The \$24.7 Million in payments covered by the OPA with Riverwood, LLC is an incentive. It is not a payment for overbuild of infrastructure to support surrounding future development. A separate development agreement covers and provides payment for the enhanced infrastructure requirements. The Grand Jury's opinion of the OPA is that Douglas County and Carson City were in a bidding war to attract development.

Riverwood, LLC is a private corporation and not required by law to release financial data. However, releasing financial data could have been required by the County in the contract.

The County Commissioners were presented with research such as the Meridian Fiscal Impact studies. The report, dated October 6, 2006, was outdated and overly optimistic. One of its flaws was that it did not allow for our present economic slowdown. The result was a binding, legal contract approved by a simple majority of County Commissioners. With the downturn in the economy today and a general reduction in tax revenue, the Redevelopment Agency's financial viability could be in jeopardy.

Description of the Investigative Findings (Complaint #8 cont.)

Did the prior County Manager and the County Commissioners act in good faith and within the law? This Grand Jury believes they did. Did such agreement present a risk? From documents reviewed and interviews taken, our conclusion is that the developer's benefits are probably greater than necessary. The prior County Manager chose to negotiate only with Riverwood, LLC, covering a minimal portion of the area. It may have simplified the negotiation but the demands by the County are disproportionate as to what is expected of the developer.

A 30,000 sq. ft. building may prove a risk because only one was required to be built under the OPA. However, the prior County Manager and Commissioners believed the risk was low because the location is very promising and no money is given upfront.

The interest rate paid by the RDA to the county stays within the county because the RDA loan was made from county general funds.

The Community Development Committee examined minutes from the December 21, 2006 and August 14, 2007 meetings of the Planning Commission. A commissioner did not approve the minutes of the July 10, 2007 meeting because the member felt it did not reflect her views. The revised Planning Commission minutes were approved and the complete audio recording was added to the record on September 11, 2007. The minutes of a meeting are only a synopsis. It is not unusual for meeting minutes to be corrected when they are reviewed in subsequent meetings.

Recommendations

The 2007/2008 Grand Jury recommends that the interim County Manager continue his overtures to Carson City to work together. It would benefit both counties if incentive money were kept for other necessities.

If infrastructure build-up is extensive and the County needs to coordinate with developers, detailed budgets and accounting should be required.

This Grand Jury recommends a more cohesive front between Commissioners, Community Development, Planning Commissioners and residents. Workshops would help communication and understanding between all parties.

This Grand Jury also recommends that Douglas County not enter into future owner participation or similar agreements with any organization that does not agree to release financial statements to the public for the duration of the agreement.

#17 - concerning County Budget

Summary of Complaint

The complaint alleges that:

- Past and current budgets are not clearly revealed and are misleading to the public.
- Slowed growth will lead Douglas County to bankruptcy as revenues based on an increasing tax and fee base dry up
- Annual employee compensation and developers' subsidies will lead to expenditures exceeding revenues in violation of financial objectives
- Douglas County Officials purposely mislead the public

Specific Action Requested

Identify the County Officials who are misleading the public.

Significant Issues Raised by the Complainant

Is the county budgeting process sufficiently transparent?

Description of the Investigative Findings

This Grand Jury reviewed the county budgets and interviewed witnesses regarding the budget process and content. The investigation concluded that Douglas County employees did not attempt to mislead the public.

The county government has an obligation to provide good customer service to the residents. The Grand Jury's investigation into County operations determined that Douglas County is operating on limited staffing. Resources are stretched and used to their optimum.

National and State economic factors have an impact on Douglas County's budget and tax revenues. County agencies are working to adapt to these economic fluctuations. The growth of the past few years has slowed significantly and the county is redirecting its objectives in line with current factors.

Recommendation

The 2007/2008 Grand Jury recommends that the County Web Site be coordinated and kept current in order to answer citizens concerns. Improving communication will help develop a more positive understanding between county and residents. The budget is posted on the Douglas County Comptroller's website.

AIRPORT COMMITTEE

Complaint #14 - Weight Ordinances

Summary of Complaint

This complaint alleges a lack of enforcement of the airport weight ordinance passed in 1984 as a citizen's initiative and amended in 1996. The complaint also seeks clarification of the financial responsibility for the infrastructure costs incurred by Empire Capital Holdings, LLC for their Pinon Aero Development.

The 1984 Initiative Ordinance ("Mandatory Referendum" statute) required appropriate load-bearing improvements to accommodate a design objective of 30,000 pounds Maximum Gross Takeoff Weight.

The 1996 amendment was voter approved for required appropriate load-bearing improvements to accommodate a design objective of 30,000 pounds for all aircraft with main gear having a single wheel or 50,000 pounds for all aircraft with main gear having multiple wheels, or maximum takeoff weight.

Specific Action Requested

- Rewrite the weight ordinance and present it to the voters
- Limit the use of general fund money for infrastructure on the East side of the airport
- Create an Airport Master Plan that addresses the safety problem on intersecting runways with simultaneous operations
- Enforce the airplane weight limit to the maximum gross takeoff weight limit determined by the FAA type certificate sheet, not the enforcement form currently in use

Significant Issues Raised by the Complainant

- Is the weight ordinance addressed in the Airport Master Plan?
- Who is responsible for the cost of infrastructure associated with the Pinon Aero Development?

Description of the Investigative Findings

The Grand Jury toured the Douglas County Airport and interviewed the interim Airport Manager. During our investigation, we talked with the former County Manager, the new interim County Manager and two members of the Board of Commissioners.

The Airport Master Plan is in the process of being revised by consultant Barnard-Dunkelberg and should be completed later this year. The Airport Master Plan revisions are funded through FAA grant money. The completed revised Plan will include a new weight ordinance and must be passed and approved by the Board of County Commissioners. The plan, then, becomes a ballot item for voters to approve or disapprove.

The main obstacle, with the current ordinance, is that the FAA does not recognize the weight limits. Per our interview with the interim Airport Manager, Douglas County cannot discriminate against aircraft that are over the weight limit. This is one of the conditions that must be complied with in order to receive FAA grant funding for airport improvements.

As for future development of the East side of the Airport, the property is leased to Empire Capital Holdings, LLC for the Pinon Aero development; but is owned by Douglas County. This development is included in the revised Airport Master Plan, which also addresses future growth of the Airport.

Description of the Investigative Findings (Complaint #14 cont.)

According to the lease agreement filed in January 2001, the tenant, Empire Capital Holdings, LLC is responsible for but not limited to the costs of:

- streets
- curb and gutters
- sidewalk
- storm drainage
- taxiways
- sewer
- water and utilities
- other entities pertaining to the project

Recommendation

The 2007/2008 Grand Jury does not have any recommendation regarding this complaint.

#16A - concerning Low Flying Aircraft over Pleasantview subdivision #16B - concerning Weight Ordinance

Summary of Complaint

- Complaint #16A addresses the issue of low flying aircraft over Pleasantview subdivision located in the Gardnerville Ranchos.
- Complaint #16B addresses weight ordinance issues.

Specific Action Requested

- The County to take immediate effective action to minimize the chance of further nuisance aircraft flights over the Pleasantview subdivision and residential areas south of Pleasantview. Establish a preferred airport arrival/departure path south of the airport necessary to redirect aircraft to the alignment of Highway 88.
- The County to take effective and ongoing action to communicate pilot awareness and compliance with the preferred flight path.
- The County to consider and implement more effective noise abatement options.
- The County to revise its Airport Master Plan to address the deficiencies concerning the record of past Minden Tahoe Airport aviation activity history in general. To include the record of county actions taken since 1984 to enforce the weight control ordinance.
- Revise the Airport Master Plan to incorporate specific limits to future airport infrastructure development.

Description of the Investigative Findings

The Grand Jury toured the Douglas County Airport and interviewed the interim Airport Manager. The manager explained that complaints regarding nuisance aircraft i.e. low flying and/or excessive noise are investigated. However, without a description of the aircraft or the identifying numbers, it is all but impossible to identify the aircraft.

The Minden Tahoe Airport has in place policies regarding flight patterns for approach and take off. The Grand Jury's Airport Committee has copies, obtained from the airport, of flight approach patterns and other relevant information.

Description of the Investigative Findings (Complaints #16A & #16B cont.)

The Federal Aviation Administration (FAA) has regulations governing approach altitudes which are 5700 ft. for light aircraft and 6,200 ft. for heavy aircraft above the runway. Once in the air, the aircraft is in FAA jurisdiction and should comply with FAA rules and regulations.

Recommendation

The 2007/2008 Grand Jury does not have any recommendations regarding these complaints.

EMERGENCY MANAGEMENT COMMITTEE

Complaints: #6 and #12 - concerning Communications/911 Department

Summary of Complaint

The 2007/2008 Grand Jury received two complaints similar in nature regarding the Communications/911 Department.

The complaints were regarding:

- Failure of the Department to address gross inadequacy of the radio equipment used for transmissions of communications between first-responders and dispatchers of vital information
- Inadequate security of the East Peak Repeater site
- The appearance of excessive travel by the Director
- Ignoring most of the recommendations of the 2000/2001 Grand Jury

Specific Action Requested

- The 2007/2008 Grand Jury conduct a comprehensive investigation of the listed complaints
- State in its Final Report any findings and recommendations for immediate corrective action

Significant Issues Raised by the Complainant

- Is the lack of maintenance and improvement to the radio communication system responsible for the unreliable radio transmissions? Is this lack presenting an unreasonable risk to officers and to public safety?
- Were the 2000/2001 Grand Jury recommendations for improvements and corrections to the radio communication system ignored?
- Is the management/supervision of the Communications/911 Department adequate?
- Is the Mobile Emergency Command Center being utilized effectively?

Description of the Investigative Findings

To better understand the complaints, the jurors heard testimony from the Communications/911 Director, the complainants, select County Commissioners, the prior and interim County Managers, and numerous county personnel.

Additionally, the Communications/911 Committee requested copies of:

- budgets, county and department expenditures, job descriptions
- minutes of the Board of County Commissioners meetings
- training records, emergency operations plans, grant records, equipment repair records
- the age of all radio equipment, maintenance records of the Mobile Command Unit
- travel records of the Director
- dispatcher turnover statistics

During a tour of the Communications/911 facility, we observed three dispatchers and one supervisor performing their duties. On this day, the staffing level appeared sufficient to handle the call volume. The call center appeared to be functionally adequate. The Tech workspace was small and insufficient with equipment on all work surfaces as well as the floor. Boxes cluttered the entire building.

The tour was conducted by the Executive Office Manager due to the absence of the Director.

Description of the Investigative Findings (Complaints #6 & #12 cont.)

The most recent Grand Jury found that the Director was absent from his duties a greater amount of time than other County Directors. This Grand Jury found the current travel time even more excessive with little or no documented benefit to Douglas County. Records of travel approval by the previous County Manager were not kept and documented as recommended by the prior Grand Jury.

Training records provided by the Communications/911 Department were reviewed. It was discovered that complete county-wide training records are not maintained for all emergency service providers. The necessary up-to-date addresses, in the local emergency response plan, were not complete. The contact section should be maintained separately and updated annually.

There was no evidence found to indicate improper expenditures by the Department. Grant funding was used for the intended purposes.

Significant Issues Identified based upon Investigative Findings

- 1) Communications is the backbone of all first responder and citizen protective services. Communication transmission quality and equipment has not been made a top priority of the Department as recommended by the previous Grand Juries. In fact, after interviewing numerous front-line users, communication quality has deteriorated to a level that personal cellular telephones are used frequently as a more reliable means of communication in the field when dealing with urgent or emergency situations. Lives are on the line and the correction of this problem must be a high priority.
- 2) The East Peak repeater site is not a secured facility. The signal cable is lying on the ground, exposed to extreme weather, fire, and physical damage.
- 3) The in-car and hand-held radios lack regular inspections. Preventative maintenance and calibration of these devices are not being conducted on a regular basis. A process does not exist to track the number or frequency of repairs to a specific unit.
- 4) The prior County Manager failed to effectively address supervisory shortcomings in the Communications Department. An example, addressed also by the 2000/2001 Grand Jury is: weekly status reports focusing on the condition and corrective actions to equipment. These status reports are not being provided to system users.
- 5) Primary communication users do not have direct communication or input on priorities or projects of the Department. Funding for improvements to the emergency communications infrastructure relies heavily on soliciting available grants. This funding methodology does not allow the County to repair and/or improve the critical components on a priority basis. Grant money may be less available in the future due to economic times and the distance from September 11, 2001. This will put additional stress on the emergency communication infrastructure.
- 6) Due to the frequent absences of the Director, there is inadequate supervision and managerial oversight.
- 7) Several witnesses stated that the Director consistently fails to act on advice provided by individuals outside of his own department.
- 8) There is not a strategic plan for repair or improvements to the emergency communication infrastructure. Some communication equipment, still in use today, has exceeded its life expectancy. Funds for capital improvements and additional personnel have not been requested in any recent budgets.

- 9) The 2000/2001 Grand Jury recommendations for Communications/911 were not responded to by the previous County Manager or presented to the County Commissioners. Only the portion of the report, as revealed by a review of County Commissioner minutes, regarding East Fork Fire Department was submitted to the Commission for action. If the 2000/2001 Grand Jury's report had been discussed at a Board of County Commissioners meeting, perhaps their recommendations would have been addressed.
- 10) Recruiting and retention of deputies, firefighters and dispatchers is a challenge at best. We acknowledge the efforts made by management in trying to keep staffing levels adequate.

Recommendations

The 2007/2008 Grand Jury makes the following recommendations regarding these complaints and the other issues identified during the investigation:

- 1) Initiate processes to recall, inspect, and calibrate all portable radio equipment at least annually and in a manner so they are identifiable to a specific unit. Review repair records periodically and replace units that have an unacceptable rate of failure.
- 2) The East Peak facility is unsecured and vulnerable. Every effort must be made to secure it immediately. Testimony was heard that funding was available to rebuild the East Peak facility. Several components of the upgrade have been purchased. Testimony also indicated that Tahoe Regional Planning Agency (TRPA) approval would be difficult to obtain and Heavenly Ski Resort was uncooperative to assist the County. Upon further investigation, it was discovered that this site is not within TRPA's jurisdiction and that Heavenly Ski Resort would fully cooperate, but now the funding is not available. Failure to complete this project could result in a major interruption of communications in the field, thus unnecessarily endangering people's lives. East Peak is the main repeater for our system and handles most of the calls from 911 dispatchers to emergency responders. Heavenly is willing to cooperate and the County needs to coordinate with Heavenly and the United States Forest Service and get this project done. The current County Manager should find the money to complete the project immediately.
- 3) Responsibility can be delegated. Accountability can never be delegated. The prior Grand Jury recommended that the Director make weekly status reports of conditions and corrective actions taken in communication quality. This did not happen. We strongly recommend regular and frequent status reports of conditions and corrective actions taken in communication quality. These reports must continue until measurable improvements in the communication system are accomplished. We strongly recommend that these reports further inform the end users of the progress made to improve communications.
- 4) Form a Steering Committee comprised of all system users to oversee the emergency communication system. The County Manager and all departments using the system should be represented on the committee. Priorities should be set by the Steering Committee, not the Office of Emergency Management. The Steering Committee needs to meet, communicate and plan on a regular basis. Meetings should occur, at a minimum, monthly. Minutes must be kept and made a part of public record.
- 5) Set service levels for the calibration and repair of communication equipment that are acceptable to the Steering Committee. Execute to the agreed upon Service Level Agreement (SLA).

Recommendations (Complaints #6 & #12 cont.)

- 6) As the previous Grand Jury stated, and we strongly recommend again, the County Manager should review and approve all travel/training functions requested by the Director for its cost/benefit effect for the Department and the County. Goals and objectives should accompany the request. Approval should be documented, attached to the request and maintained on file for an appropriate audit trail. Information obtained as a result of these travels must be presented to peers and subordinates.
- 7) Develop a strategic five (5) year plan covering the repairs and improvements necessary to build reliable emergency communication infrastructure. Update the plan annually and review it with the Board of County Commissioners.
- 8) Develop a tactical 18-month plan tied to the County's budget cycle. Consider expected grants and budgeted county funds when developing the plans. Review the plan quarterly and adjust as necessary. Review the execution status of the plan monthly and provide updates accessible to Douglas County residents. Review the plan and execution status with the Douglas County Board of Commissioners quarterly, even if there has not been any activity due to lack of funding or other priorities. It is important to keep the status of the emergency communication system visible to the Douglas County Board of County Commissioners and the general public until the system problems are resolved. An annual report to the Board of Commissioners on the state of the emergency communication system, with a review of the strategic plan, should be sufficient after resolution of the problems.
- 9) Perform an annual review of the Emergency Management Policies and Procedures Manual.
- 10) Global Positioning System (GPS) units should be standard equipment in all emergency response vehicles.
- 11) The County needs to centralize training records of all emergency training exercises. The annual multi-agency training exercise must be a physical exercise, not a table-top exercise.
- 12) Procurement cards are widely used throughout the County. During our investigation, we discovered one of three high limit emergency use credit cards was being used by the Communications Director for routine purchases. We recommend that emergency use credit cards be kept in three different secured locations and used for emergencies only.
- 13) It is further recommended that the next Grand Jury review these recommendations for follow through.

PRESENTATIONS FOR CRIMINAL INDICTMENT

The 2007/2008 Douglas County Grand Jury was impaneled as a General Grand Jury. One of the duties of a General Grand Jury is to review evidence presented by the District Attorney in order to determine whether an indictment should issue. The Grand Jury hears evidence as presented by the District Attorney and then determines whether that evidence justifies an indictment.

The Grand Jury should find an indictment when all the evidence before it, taken together, establishes probable cause to believe that an offense has been committed and that the target, the person who is the focus of a Grand Jury investigation, has committed it.

The finding of "probable cause" does not involve a determination of the guilt or innocence of an accused.

The Nevada Supreme Court has repeatedly held that the finding of "probable cause" may be based on slight or even marginal evidence.

If the Grand Jury finds that the evidence presented satisfies the legal standard, the Grand Jury shall return a True Bill and an indictment will follow. If the Grand Jury finds that the evidence does not satisfy the legal standard, no True Bill is returned and there is no indictment.

A quorum of 12 members or more was present at each criminal indictment.

September 10 and 11, 2007 — The District Attorney of Douglas County presented evidence concerning Karen Bodden.

- open murder with a deadly weapon

Ms. Bodden and her attorney were invited to appear before the Grand Jury, but did not. Thirteen witnesses testified. A True Bill was returned.

January 17, 2008 — The Deputy District Attorney presented a criminal indictment concerning Valter Verbanac.

- two felony counts of sexual assault concerning a child under the age of 16 years
- one felony count of abuse of a child under the age of 18 years

Mr. Verbanac and his attorney were invited to appear before the Grand Jury, but did not. Three witnesses testified. A True Bill was returned.

January 17, 2008 — The Assistant District Attorney presented a criminal indictment concerning Nayo Orozco Ortiz.

- one count of trafficking in a schedule controlled substance
- one count of delivery to Valdene Elaine Roberts
- one count of conspiracy to violate the uniform controlled substances act

This criminal indictment was also concerning Valdene Elaine Roberts and Crispin Pacheco.

- one count of trafficking in a schedule controlled substance
- one count of conspiracy to violate the uniform controlled substances act

Mr. Ortiz, Ms. Roberts, and Mr. Pacheco and their attorneys were invited to appear before the Grand Jury, but did not. Six witnesses testified. A True Bill was returned.

February 21, 2008 — The Assistant District Attorney and the Deputy District Attorney presented a criminal indictment concerning Robert Michael Hernandez.

- eluding a peace officer with bodily harm

Mr. Hernandez and his attorney were invited to appear before the Grand Jury, but did not. Two witnesses testified. A True Bill was returned.

March 6, 2008 — The Deputy District Attorneys presented a criminal indictment concerning Joseph Michael Stedman.

- battery by a prisoner in lawful custody or confinement

Mr. Stedman and his attorney were invited to appear before the Grand Jury, but did not. One witness testified. A True Bill was returned.

May 8, 2008 — The Assistant District Attorney and Deputy District Attorney presented a criminal indictment concerning Darren Bricker.

- Open and Gross Lewdness

Mr. Bricker and his attorney were invited to appear before the Grand Jury, but did not. Three witnesses testified. A True Bill was returned.

GENERAL RECOMMENDATIONS

The 2007/2008 Grand Jury recommends to the Honorable District Court Judges, David R. Gamble and Michael P. Gibbons:

- There are many opportunities and challenges that face Douglas County at the close of the 2007/2008 Grand Jury. Long-time, experienced county personnel are retiring. A very capable interim County Manager has recently taken the helm. Effects of recent economic downturn are evident throughout the County. It is an election year where several County Commission seats are open for election. In consideration of the aforementioned, we recommend that the next general Grand Jury be impaneled in 2011 to closely review changes in the county and implementation of this Grand Jury's recommendations.
- The general Grand Jury prior to this one was impaneled in 2000/2001. A shorter period of time should elapse between impanelment. It is our recommendation that there should be no more than 5 years between general Grand Juries.
- This report and its findings are ultimately the property of each citizen of Douglas County. Every effort should be made to disseminate the Grand Jury's Final Report as widely as possible. Keeping in mind the diversity of population, this should include print media as well as electronic media.

ACKNOWLEDGEMENTS

In conclusion, the members of the 2007/2008 Grand Jury have considered it an honor and a privilege to have participated in the inquiries and functioning of Douglas County government.

We thank the citizens who took time to submit complaints in writing.

We thank all those who, over the last twelve months, have provided testimony at our meetings.

A heart-felt thanks to all the plethora of individuals who put in long hours on our behalf after their normal work day:

District Attorney Mark Jackson and his staff, our bailiffs, court clerks, court reporters, and others.

To the Honorable District Court Judges, David R. Gamble and Michael P. Gibbons, we extend thanks for your guidance in the important matters that came before us.

Finally, we are truly indebted to Constable Paul Gilbert for the plethora of requests he was able to fulfill on our behalf. His unwavering dedication to the Grand Jury has been nothing short of amazing. He is truly an asset to the County.
