

The balancing act: Grand jury gobbledy-gook

By Larry Weitzman

From page A4 | July 14, 2014 |

Dysfunction is the key word within the title of the new Grand Jury report published on June 20 regarding the El Dorado County Charter. Most if not all Grand Juries are supposed to be fact-finders, and although I didn't examine the entire report to see if other areas of the report had fact-finding or opinion, the Dysfunction section discussed here was mostly opinion or statements with absolutely no factual basis.

* This section of the report is supposed to be the basis for Terri Daly's campaign to make her the Fuhrer of El Dorado County. Fuhrer in German means guide or leader, but most people think of Fuhrer as a dictator, and not a benevolent one. The report has Terri Daly's fingerprints all over it as if she not only wrote the report but drafted the charter changes recommended by the GJ and submitted to the Charter Review Committee. Why? Because the report is full of opinion and statements that have no factual basis and the way the Grand Jury referred to the CAO within the report itself. Grand Juries are supposed to be fact finders not opinion writers or editorialists.

Within the six pages are claims for which there is no basis in fact, starting with the "proliferation" of elected officials in El Dorado County. Was that a malapropism or did the GJ not understand what the word "proliferation" means? It sounds like the GJ is trying to find an ant hill in the Himalayas. There hasn't been any new elected office created in the county since the passing of the El Dorado County Charter in 1994. What proliferation is the GJ talking about, the rapid expansion in the last four years in budget and employees in the CAO's office? Then the GJ concludes there should be no elected officials in EDC except those required by California law (the sheriff, district attorney and the assessor). Their reasoning is that the county's elected officers, the BOS and/or its five members interfere in the administration of county business. Of course, they don't cite one example or fact as to what the interference is, how it occurs, when did it happen and why and who did it. Nothing, zero, nada.

The GJ says that the purpose of the BOS is to create and implement the vision for the future of EDC. What is the purpose of the General Plan? While Section 210 (a) (1) of the County Charter says the BOS shall adopt a statement of goals annually reflecting the quality and direction of the activities of county government, it is hardly a vision and the only purpose of the BOS. I got news for the GJ, the ultimate county buck stops with the BOS. They share ultimate responsibility of the administration of EDC business and the BOS changes every two years and some BOS members will have different visions and ideas. It will be ever changing and that "vision" creation is not even a part-time job. It is, to use the GJ's word, esoteric baloney. Here's a county vision. Better, faster and more service and smoother, better roads all for less money. OK, what is a BOS member suppose to do for the next 8,759 hours left in the year?

* As reported in the last Balancing Act, the BOS needs to be involved as Amador County is now saddled needlessly with a \$20 million lease obligation because the BOS trusted and did not question sufficiently what the CAO Terri Daly, snuck through at a BOS meeting via the consent calendar. Yes, it's the same Terri Daly who now entrusted with a budget seven times greater than the Amador County budget.

Here are examples of the El Dorado County Grand Jury's conclusions without a factual basis. The GJ states "Recently the imbalance and potential for abuse of power by elected officials has been brought to the public's attention following the county's Workplace Climate Assessment Survey and ensuing significant criticism of the auditor-controller. Whether or not the criticisms directed at the controller are true..." The GJ makes a conclusion while admitting it doesn't know if it's true or not. In fact, the Climate Assessment Survey said

nothing of the auditor-controller and, in fact, gave the auditor-controller some of the highest marks in the survey, while giving the CAO's office some of the lowest marks. But the GJ didn't say a word about of the negative remarks or facts derived by the survey regarding CAO or assistant CAO. The Grand Jury obviously did not study the report. They were not interested in fact finding.

Want more? At the beginning of the very next paragraph the GJ wrote, "Although the GJ did not investigate the allegations made against the auditor-controller following the county's Workplace Assessment, the GJ received substantial testimony from a number of witnesses..." If they didn't investigate the allegations against the auditor-controller they obviously didn't do a proper fact-finding and therefore shouldn't say anything that isn't backed by facts, which they again obviously did not ascertain. This GJ report is strictly anecdotal and its recommendations should be disregarded. There is no factual basis for its conclusions. This Grand Jury report was nothing more than a continuation of a witch hunt.

The GJ's rant isn't limited to certain elected officials, it also disses the electorate when it says "the electorate has no valid basis for evaluating the performance of officials performing the specialized and sometimes esoteric (now there is a word to show just how smart the GJ is) duties of these offices." What, the CAO who wants to select these people herself is an expert? Yeah, sure. Our CAO has already shown herself to be untrustworthy with some of her appointments and a terrible business person. Ask Amador County.

As to the Grand Jury's idea of a government that is a harmonious love fest, forgetaboutit. If you want a government without disagreement or dissent, try a dictatorship. Everyone is a yes man to the dictator or head of government. That is what makes the American government so different. It is created with checks and balances and competing ideas to most everything, and you want that provided for in its structure, such as elected officials facing the voters every four years and that includes the BOS. One thing we don't want is a runaway government and that's what you will get with the Grand Jury's baseless recommendations. Surprising is that notwithstanding the Sac Bee's very limited investigation and evaluation of the GJ "Dysfunction" report in its July 5 editorial, the Sac Bee agrees that it is not a good idea to "reduce democracy... for political expediency."

Larry Weitzman is a resident of Rescue.

Item #1 – Approval of the July 15, 2014 Minutes.

Section 54950 of the Brown Act states in part:

“In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the **conduct of the people's business.** It is the **intent of the law** that their actions be taken openly and that their deliberations be conducted openly.

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

The Brown Act further states in section 54954.3(c) that “when the public testifies before a legislative body, the body may not prohibit the individual from criticizing the policies, procedures, programs or services of the agency or the acts or omissions of the legislative body...members of the public have broad constitutional rights to comment on any subject relating to the business of the governmental body.”

Madam Chair, last week you violated the aforementioned portion of the Brown Act when I attempted to read a portion of the article written by Larry Weizman entitled “*The Balancing Act: Grand Jury Gobbledy-gook.*” Mr. Weizman’s comments echoed my own sentiments, yet I was denied my First Amendment rights by this legislative body.

I submitted the Balancing Act article into the public record, but it was not included in the minutes that you are about to approve under Consent. As you are well aware, this has been brought to your attention on more than one occasion. Remedial action by the Board is in order prior to rubber stamping these consent items. Avoidance is not an option. How you respond will determine whether EDC remains stuck in a rut...or if this board is capable of appropriately leading us towards a brighter future.

Mr./Madam Clerk: Please enter this transcript into the public record.

M. Smith Public Comment
Consent Calendar BOS
7-22-14

Board of Supervisors, July 22, 2014 – Mark E. Smith Garden Valley
Consent Comment

Last week there were 44 items on consent and this board spent 4,229,056 on those items alone. That's not all the money you spent however, because many of the items didn't have dollar amounts specified, and as we learned some of them cost more than was listed, some less. It was an exercise in futility trying to figure out the exact cost to the county.

This week there are 22 items on consent, and it is impossible to try and figure out how much will be spent because there are so many problems with wording and funding sources. How is it possible to be a responsible public official and vote on these items when it is clear to me that there is no accountability for these funds?

Some don't specify an amount, others say they are non-financial, then revenue generating, then require an MOU with a maximum dollar amount but don't mention the dollar amount.

Still others quote funding sources with dreamy calculations – what if they don't materialize? And what about the cost to the county to provide the services in the first place?

And, still others provide a blank check to the CAO by providing signing authority with no limits or loosely worded amounts that in reality amount to virtually no limit at all.

And, finally, one item on consent even provides a taxpayer donation to a non-profit group for a politically motivated group. Since when does the county do that? How about a donation to the NRA? Or the Senate Conservatives Fund? Maybe Ducks Unlimited? Freedomworks.org? How many more can you think of?

POLITICAL
ACTION
COMMITTEE
(PAC) (MP)

It is clear that the Board didn't hear the people or the Mountain Democrat when we all complained about the abuse of the Consent calendar. Over 4 million dollars last week. It's so messed up this week I can't even calculate it.

Melody Lane's 1st Amendment rights were violated in this chamber last week when she spoke on this topic and tried to read from the Mountain Democrat Article. Madam Chair, it is the right of every American to speak whatever they wish when they have the floor according to the rules, and I will not tolerate another such violation.

There are contentious issues at play. Some unelected people want more power than the County Charter provides. Citizens oppose that and see their freedom, their property, and their livelihood being taken away. Citizens feel that their Supervisors are not listening to their concerns and are abdicating their proper authority. This is the crux of the problem.

It is partially up to you what the outcome is. But the citizens will not stand idly by and watch while their government is taken over by a petty dictator. Now, Supervisors, do your duty and uphold your oath to the Constitution of the United States, the State of California, and the County of El Dorado.

Thank You.

Attachments (1):

1. This consent comment document
2. Letter, Monday July 21 2014, requesting items be pulled from consent, from Mark Smith

County Counsel Allowed extensive comment during
consent when public CANNOT respond!

Mark

From: Mark [REDACTED]
 Sent: Monday, July 21, 2014 7:44 AM
 To: 'edc.cob@edcgov.us'; 'bosone@edcgov.us'; 'bostwo@edcgov.us'; 'bosthree@edcgov.us'; 'bosfour@edcgov.us'; 'bosfive@edcgov.us'
 Subject: Please Pull from Consent #8 (14-0935); #11 (14-0850); #16 (14-0972); #18 (13-0817); #19 (14-0939); #22 (14-0986)

Please pull from consent for full public consideration and comment:

- #8 (14-0935);
- #11 (14-0850);
- #16 (14-0972);
- #18 (13-0817);
- #19 (14-0939);
- #22 (14-0986)

Refused to pull from consent!

Thank You

Mark E. Smith
 Email: [REDACTED]
 Phone: [REDACTED]

"They're on our right, they're on our left, they're in front of us, they're behind us; they can't get away this time!"
 Chosin Reservoir, Korean War
 Col. Lewis B. "Chesty" Puller, USMC

Supervisor Mikulaco now dictates
 that people CANNOT EVEN COMMENT ON
OFFICIAL BUSINESS!

BOS Agrees!

[Handwritten signature]