

There are so many things to talk about I have little time except to mention them and refer to the extensive documentation I am submitting into evidence.

As I wrote in the Mountain Democrat on Monday August 11 this Board of Supervisors is a lawless regime. On that date I was referring to the fiasco of the yellow petition "Restore Measure Y". Two articles and a copy of the County Ethics code are submitted on that topic. The Board refused to support sound Ethics.

I have repeatedly testified before the Board regarding the issues with contracting procedures and the Mount Murphy bridge. There was no interest in resolving any of these by this board, and now we have contract fraud totaling 1.3 million dollars. I submit as evidence an article dated November 3, 2014 from the Mountain Democrat for the public to access. I expect ALL involved to be indicted and prosecuted, not just dismissed from county employment or allowed to retire on full benefits. It is your responsibility to set the standard of behavior for this county.

On November 4th this Board had yet another problem with conflict of interest in the case of Tom Heflin and the Planning Commission. I have submitted six pages of evidence, including board minutes, newspaper coverage, county ethics code, photo evidence, and a brief summary of my own. Once again, instead of setting the example and taking the high road, this board and taken the low road and made it open season for corruption in our County.

Scant few documents have been released regarding the Mount Murphy bridge, however what has been released falls far short of transparency in government or my CPRA's. I submit for evidence 4 pages of screening criteria and summary documents annotated to illustrate how the process has been totally corrupted. Also, the article from the Georgetown Gazette dated Thursday November 6.

Finally, on November 4<sup>th</sup>, by allowing un-agendized public comment in support of the CAO Terri Daly prior to closed session at 0800 you violated the Brown Act. This is the last straw in a long string of 1<sup>st</sup> Amendment violations this Board has committed and it must stop. I submit 6 pages of evidence and I have an audio recording of the proceedings proving the event occurred as I have just testified.

Attachments

This Document 2 pages  
Ethics Violations 3 pages  
Contract Fraud 2 pages  
Tom Heflin Conflict of Interest 6 pages  
Mt Murphy Bridge 5 pages  
Brown Act Violation 6 pages



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## Ethics violation charges hurled at Dist. 4 Supervisor Ron Briggs

By Chris Daley

MOTHER LODE NEWS

Members of the audience ~~excoriated~~ District 4 Supervisor Ron Briggs during the Aug. 5 Board of Supervisors meeting with charges of ethics violations and possibly even corruption.

Generally in support of trying to get supervisors to reconsider their July 29 decision not to approve the "Reinstate Measure Y Initiative" for the November ballot, speakers demanded that Briggs should have recused himself on the earlier vote. It was Briggs's motion to require a 30-day study of the measure which eventually passed 3-1 and which effectively postpones the "Reinstate Measure Y Initiative" until the next regular election in June 2016.

Frank Verdin with the Shingle Springs

Community Alliance/No San Stino movement led a series of speakers noting that Briggs's son Alex worked as a consultant to the so-called Region Builders initiative, a competitor in a field of three other land-use related initiatives scheduled for November. Supervisors had earlier approved that one for the November ballot, but opponents consider that action as tainted by Briggs's role in it.

"Why didn't Mr. Briggs recuse himself," Verdin asked.

Lori Parlin, also with the Shingle Springs Community Alliance followed Verdin to the podium saying, "We've been sabotaged by our board ... You had big concerns about the Region Builders, but you didn't (require a report on them). Mr. Briggs, you didn't recuse yourself, (you should have because of your son

working on a competing initiative)."

Referring to the younger Briggs's involvement with the other initiative, Patti Chelseth charged that there was a "conflict of interest" that should have been acknowledged.

Proponent of the "Reinstate Measure Y Initiative," Sue Taylor considered Briggs's "non-recusal" a violation of the Ralph M. Brown Act, and directly addressing Briggs, Taylor said, "How about doing the right thing?"

Mark E. Smith of Garden Valley, after verbally pummeling the whole board alleging corruption and virtually "tyrannical" behavior, had the harshest criticism for Briggs.

"As a side note," Smith said as he walked away from the podium, "Mr. Briggs, you deserve to go

➤ see BRIGGS, back page

## BRIGGS

continued from 1

to jail."

In response, Briggs said, "We are a political family" and described two of his sons' involvement in local politics. "If I thought there was one iota of conflict (of interest in this), I would have

recused myself."

County Counsel Ed Knapp later pointed out that the law generally regards the actions of adult, non-dependent children as separate from an office-holder. That is, they do not automatically result

in a conflict of interest for the elected official. "I'm not aware of any conflict of interest here," Knapp concluded.

(Editor's note: See today's letters for more on this from Garden Valley resident Mark E. Smith.)

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## BOS a lawless regime

EDITOR:

July 29, on Item 28, the Board of Supervisors crossed the line into absolute despotism by denying the people the right to vote on the Yellow Petition, "Restore Measure Y - No More Paper Roads." They violated the 1st Amendment right to free speech and right of the people to petition the government for redress of grievances, in addition to violating the 14th Amendment right to equal protection under the law. Arguably, the BOS also violated the 9th, 10th and 26th Amendments.

But they didn't stop there. The BOS also violated the county Code of Ethics codes No. 1, 2, 5, 7, 9, 11 and 12. Supervisor Briggs even failed to disclose that his son worked on the campaign of a competing measure brought by Region Builders (pink petition) who, along with Bill Center, Jim Moore and Howard Penn (blue petition) conspired together to crush the Yellow Petition before the people had a chance to choose. Supervisors Briggs, Veerkamp and Mikulaco supported this conspiracy. Supervisor Santiago did not.

Let's not mince words here — these named people crushed the right of the people in this county to vote on a petition that almost 10,000 registered voters signed. Those signatures were gathered by volunteers, not paid liars who said one thing then switched petitions as you signed. The board knew it and on May 13 officially recognized this activity. What other actions did the board take?

On April 25, LVC-EDC (citizen sponsors of "Restore Measure Y") asked the Sheriff's Office and the District Attorney to investigate complaints from citizens regarding Region Builders paid petition gatherer's activities.

On May 13, the BOS ordered reports so that there would be no delays when the signatures were certified and the propositions were ready for the ballot.

On June 10, the BOS received both competing propositions and put them on the ballot without ordering a 30-day report. The BOS assured the public that the "Restore Measure Y" petition would receive the same process when they received it.

On July 29, the BOS put another measure on the ballot (green petition) as promised. However, despite continuing dialogue, previous official actions and prior promises to the public, they voted to require a 30-day report for the Restore Measure Y petition, effectively crushing it for the 2014 election. Why? Because it would effectively limit their despotic power reign in the uncontrolled urban sprawl creating a traffic nightmare throughout our county. It would also hurt their development interests and developer friends. Big money and regional, even national expansionist plans are at stake here.

For months now I and others have been bringing physical and audio evidence of corrupt county contracting practices to the Board of Supervisors for corrective action. Not one iota of interest has been received, not one corrective action taken. I and others have pointed out items on the agenda identified by staff as illegal and requested corrective action, only to be ignored.

## "RESTORE MEASURE Y"

On Aug. 5, many people asked the BOS to reconsider their actions and let the people decide — let the rule of law exist in El Dorado County — on the "Restore Measure Y" proposition. They refused. In fairness, Supervisor Santiago tried but was unable to help. I again, during nearly the last item of business, directly named and challenged Supervisors Mikulaco, Veerkamp and Briggs. I named the Constitutional principles, read the Ethics Code, pleaded with them one more time to reconsider, yet once again they refused.

This is the face of fascism — when our elected officials are no longer public servants, but rulers; when our democratic process has been completely suppressed; when our Bill of Rights has been totally denied; when the BOS passes laws shown to be illegal; when those who are supposed to protect the people instead act to deprive them of life, liberty and property; when they refuse to correct corrupt practices when proof is brought to them in the public square; when they violate their own ethics policies yet brazenly stand untouched by the law. Let us face the facts and realize that we have lost control of our local government.

In summary, three of our four Supervisors voted to suppress free speech, the right to vote and the right of the people to petition our government. It doesn't get any more basic than that.

The real question is: What are we the people going to do about it?

MARK E. SMITH  
Garden Valley



# El Dorado County Code Of Ethics

- 1 1. > In the performance of your governmental duties, be sensitive to circumstances that could be misconstrued as a special favor, something to be gained personally, acceptance of a favor or as an influence in the outcome of your duties.
- 2 2. > Be cognizant that private promises of any kind may conflict with one's public duty and responsibilities.
- 3 3. > Always perform your governmental duties conscientiously.
- 4 4. > Always act responsibly with confidential information received in the performance of your governmental duties.
- 5 5. > Outside activities should be compatible with the objective performance of your duties or delivery of government service.
- 6 6. > Treat all individuals encountered in the performance of your duties in a respectful, courteous and professional manner.
- 7 7. > Promote only decisions that benefit the public interest.
- 8 8. > Conduct and perform job duties diligently and promptly.
- 9 9. > Faithfully comply with all laws and regulations applicable to the county and impartially apply them to everyone.
- 10 10. > Promote the public interest through a responsive application of public duties.
- 11 11. > Demonstrate the highest standards of personal integrity, truthfulness and honesty in all public activities.
- 12 12. > Uphold these principles being ever conscious that public office is a public trust.

I acknowledge that I have been provided a copy of the El Dorado County Code of Ethics. I understand this Code of Ethics applies to all County employees and that it is my responsibility to review this policy and to request clarification on any issues that I do not understand. This signed copy of the Code of Ethics will be retained in my official personnel file.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

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## THE BALANCING ACT by Larry weitzman

### Arrogance, incompetence and abuse of power.

**T**his column's theme for the last several months has been about mismanagement within the Chief Administrator's Office and it goes right to the top. It all started with the climate of fear and the unfounded claims made by the county's Chief Administrative Officer. Then it went into the CAO's hiring practices in recruiting people who, by their past history, were clearly incompetent and perhaps with a little spoils system thrown in. Next it has gone to the huge budget deficits (\$25 million or more annually) that are becoming apparent because of an excess of hiring new employees, massive spending on outside consultants and recommending huge raises for county employees including the CAO and the Assistant Chief Administrative Officer. Now those deficits look to be even larger because of potentially overstated revenue projections, but that will be for a later column.

If you thought it couldn't get any worse, it has and it goes to the actions of the then-acting head of the Community Development Agency and now Assistant CAO, Kim Kerr, at the time they occurred. What could she have



**Now comes the cover-up. It appears that the CAO plans to place an item on the next BOS calendar attempting to get retroactive approval for the acts of the ACAO by simply ratifying her actions.**

done that was so bad? How about authorizing contract change orders well beyond her authority and spending money without the required procedures and approval of the Board of Supervisors. And it just didn't happen once. According to county documents it happened on at least seven Capital Improvement Programs, including

projects like the U.S 50/Missouri Flat Road Interchange and several Green Valley Road improvements.

Pursuant to Section 20142 of the California Public Contract Code and conforming Board Of Supervisors Resolution 102-2012 passed on July 24, 2012, (it superseded BOS resolution 106-93), change orders subsequent to the award of a contract are limited in their amount to 10 percent of the original contract amount except when the original contract is in excess of \$250,000 which in that case the limit of total change orders is \$25,000 plus 5 percent of the original contract amount not to exceed \$210,000, no matter the original amount of the contract. Any contract less than \$50,000 has a \$5,000 change order cumulative limit. Actually, it is an easy concept to understand, except for our current Assistant CAO Kim Kerr, who either intentionally or negligently ignored the law. Either way there is no excuse.

These violations became public when a County of El Dorado Document Master Report, File No. 11-1196 enumerated the various violations of the Public Contract Code. In that Master Report, it lays out that these illegal Contract Change Orders totaled 48, as much as 48 times that the head of the CDA at the time issued 48 change orders that exceeded her statutory authority. Payments have been

■ See **WEITZMAN**, page A10

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made on 36 of these illegally issued CCOs, but 12 are still outstanding and unpaid.

Those 48 illegal CCOs that were illegally authorized total \$1,295,559. Records show that most were signed by Kim Kerr as acting CDA Director but other county staff are involved, as each CCO requires at least four signatures starting with the Resident Engineer, Assistant Director, Director of Transportation and the (Acting) CDA Director.

Someone within the CAO's office (the CDA operates within the CAO's office) discovered these mistakes and without BOS retroactive approval, not only will these CCOs remain illegal, but the 12 remaining unpaid CCOs will remain unpaid without BOS ratification of the prior acts. But that doesn't excuse the actions of certain county official(s) who approved these CCOs without BOS approval.

There are two people upon which these illegal actions fall upon. The "buck" stops with ACAO, Kim Kerr, who headed the CDA during this period and the CAO herself, Terri Daly. They should know the rules as Resolution 102-2012 was passed on July 24, 2012, in open session by a 5-0 vote of the BOS and Terri Daly's name appears on the document attesting to the resolution. Daly and Kerr were well aware of the rules and laws governing change orders. But it looks like they didn't think these rules were very important as one or both of them violated the California Public Contract Code and BOS resolution 48 times.

Zebras don't lose their stripes and the modus operandi of ACAO Kim Kerr hasn't changed. Her slipshod management style as the recent city manager of the City of Ione is obviously apparent in her actions as EDC's ACAO. Kerr as Ione city manager failed to reconcile Ione's bank accounts for over two years and Amador County Grand Jury reports called her incompetent, saying that "the City Manager for the fiscal period 2007-2011 (Kim Kerr's tenure) did not demonstrate she possessed the proper qualifications and expertise to perform the duties required for that position." (See Balancing Act June 16, 2014, and Amador County Grand Jury Report 2012.)

Now comes the cover-up. It appears that the CAO plans to place an item on the next BOS calendar attempting to get retroactive approval for the acts

of the ACAO by simply ratifying her actions. It will be interesting if this item shows up under the consent calendar with Daly trying to slip it through and hiding it from the BOS and the public, just like Daly did during her tenure as Amador County CAO, sticking Amador County with a \$20 million lease they didn't need (see Balancing Act July 7, 2014). You see, Terri Daly is responsible for hiring Kim Kerr and giving her a raise in salary while knowing of her past "indiscretions" as city manager of Ione. Daly is responsible for Kim Kerr's actions as an employee of EDC.

Then there is the issue if these potential violations of the California Public Contract Code rise to the seriousness to cause an investigation by the district attorney. Public Officials are given the public trust and need to be held to a higher standard just as former District 2 Supervisor Ray Nutting was. His misdemeanor violations of the law cost him his job and a whole lot more.

In another twist of fate, it appears that Municipal Resources Group, a company that was hired for the sum of \$250,000 to eliminate the "climate of fear" and create a "Climate Action Plan" in EDC, hasn't been paid.

In a letter to the BOS it seems that CAO Terri Daly signed, pursuant to BOS approval and at her request, a contract of which she has neglected to pay invoices totaling \$63,356 for the months of July, August and September. The purpose of the contract was to address the alleged problems supposedly enumerated in the "Climate of Fear" study created by the law firm of Van Dermyden Maddux, a study which cost \$140,000.

The Balancing Act analysis of the Van Dermyden Maddux study said if there is a climate of fear in EDC government it starts and ends at the top, in the CAO's Office (see Balancing Act May 19 and June 2, 2014). The question becomes why wouldn't the CAO submit these invoices to the County Auditor for payment? Could the reason be that the CAO didn't like the preliminary information received from MRG. Perhaps they are pointing the finger in a direction Daly doesn't like, proving prior Balancing Act columns correct.

Thank you Terri Daly for flushing \$390,000 down the toilet looking for answers which you already knew by looking in the mirror.

*Larry Weitzman is a resident of Rescue.*

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## Brief History of Tom Heflin/Sup. Brian Veerkamp Conflict of Interest (Planning Commission)

As of October 30, 2014 Parker Development that so far has spent over \$800,000 to confuse and lie to the voters regarding locally driven Measures M & O and Region Builders Measure N from Sacramento.

Planning Commissioner Tom Heflin is currently featured in a TV ad speaking out against the three measures, one of which will protect our county from high-density development. The TV ad is paid for by Marble Valley Co. and Serrano Associates, which are both ventures of Parker Development. Parker Development has two high-density developments in the application process in our county, and those projects will come before the Planning Commission during the process. A snapshot of the TV ad is below.

Supervisor Veerkamp fired Mr. Heflin effective October 24, which was put on the Tuesday, October 28, Board agenda.

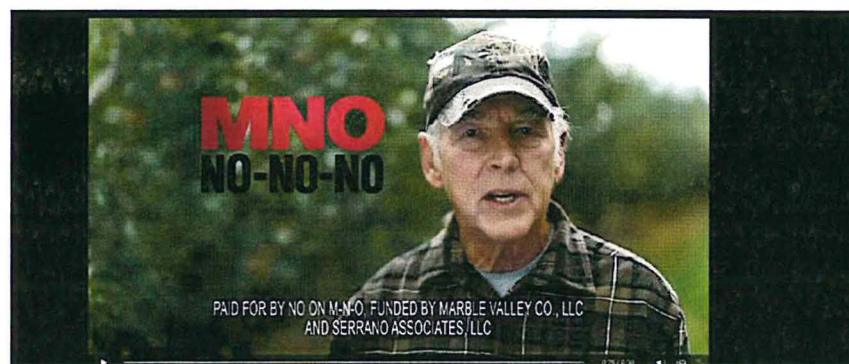
At the October 28 Board meeting Supervisor Veerkamp decided to take the item off of the Board agenda during the meeting, stating that they were working something out rather than following through and removing Mr. Heflin.

This is in clear conflict with the El Dorado County Code of Ethics Items #1, 2, 3, 5, 7, 9, 11, and 12. A copy of the Ethics code has been attached.

Also attached are the relevant BOS meeting agenda item and meeting minutes the shows board action allowing Tom Heflin to remain on the Planning Commission. This in effect states that un-ethical behavior is OK in our County and will be tolerated, if not rewarded, by our Board of Supervisors. A Mountain Democrat article documenting official proceedings is also attached.

Finally attached is a letter to the BOS written by myself saying that this is not permissible in El Dorado County. When I tried to read this into the record during public comment, the microphone was shut off (Tuesday 11-4-2014).

**This is Tom Heflin, Supervisor Brian Veerkamp's Planning Commissioner for El Dorado County District 3. Marble Valley and Serrano are both ventures of Parker Development. Why is a Planning Commissioner featured in an ad sponsored by a developer with a project pending in El Dorado County?**



### Conflict of Interest?

Attachments: 5 (6 counting this page)

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# County of El Dorado

330 Fair Lane, Building A  
Placerville, California  
530-621-5390  
FAX 530-622-3645  
www.edcgov.us/bos

## Minutes - Final

### Board of Supervisors

*Norma Santiago, Chair, District V*  
*Brian K. Veerkamp, First Vice Chair, District III*  
*Ron Mikulaco, Second Vice Chair, District I*  
*Shiva Frentzen, District II*  
*Ron Briggs, District IV*

*James S. Mitrison, Clerk of the Board of Supervisors*  
*Terri Daly, Chief Administrative Officer*  
*Robyn Drivon, County Counsel*

Tuesday, October 28, 2014

9:00 AM

South Lake Tahoe City Council Chambers  
1901 Airport Road, South Lake Tahoe

### Meeting in South Lake Tahoe

#### ADDENDUM

Item No. 13 is hereby added to the Consent Calendar. *THIS Item Attached!*

Item No. 14 is hereby added to Department Matters.

A quorum of the Board of Supervisors may be present for lunch at the Flight Deck Restaurant, 1901 Airport Road, South Lake Tahoe at approximately 12:00 p.m.

9:06 A.M. - CALLED TO ORDER AND PLEDGE OF ALLEGIANCE TO THE FLAG

Supervisor Veerkamp led the Pledge of Allegiance to the Flag.

Present: 4 - Supervisor Santiago, Supervisor Mikulaco, Supervisor Veerkamp and Supervisor Frentzen

Absent: 1 - Supervisor Briggs

#### ADOPTION OF THE AGENDA AND APPROVAL OF THE CONSENT CALENDAR

A motion was made by Supervisor Mikulaco, seconded by Supervisor Veerkamp to Adopt the Agenda and Approve the Consent Calendar with the following change:

→ Continue Item 13 off calendar. *THIS MEANS NO ACTION* ←

14-1494

OPEN FORUM (See Attached)

Public Comment: S. Novasel, J. Harn (via email)

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**ADDENDUM****CONSENT CALENDAR****13. 14-1479**

Supervisor Veerkamp recommending the Board take the following action:

- 1) Accept the resignation or removal of Planning Commissioner Tom Heflin with an effective date of October 24, 2014; and
- 2) Direct the Clerk of the Board to post a Notice of Vacancy for the recruitment of a new Commissioner for District Three.

**DEPARTMENT MATTERS****14. 14-0346**

Chief Administrative Office, Facility Management Division, recommending the Board decline the Right of First Refusal to purchase the property located at 1900 Lake Tahoe Boulevard, South Lake Tahoe, pursuant to Lease Agreement No. 298-L1411 Section 5.0, Right of First Refusal.

FUNDING: Not applicable at this time.



# El Dorado County Code Of Ethics

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I acknowledge that I have been provided a copy of the El Dorado County Code of Ethics. I understand this Code of Ethics applies to all County employees and that it is my responsibility to review this policy and to request clarification on any issues that I do not understand. This signed copy of the Code of Ethics will be retained in my official personnel file.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

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# Anti-M-N-O ad with commissioner raises hackles

**Chris Daley**  
Staff writer

El Dorado County District 3 Planning Commissioner Tom Heflin's position may be shaky following public concern regarding campaign ads featuring him urging opposition to local initiatives M, N and O. E-mails circulated showing a still photo from a television ad with Heflin standing in an apple orchard (he owns Rainbow Orchards in Camino.) The caption asks if his involvement represents a conflict of interest. The e-mail further asks why a planning commissioner is

featured in an ad sponsored by a developer who has projects pending in the county.

The Marble Valley Co. and Serrano Associates, both divisions of Parker Development, are listed as the sponsors and election documents show the firm has contributed at least \$200,000 to stop the so-called slow-growth measures. Sierra Pacific Industries (SPI) and G-3 also contributed nearly \$50,000 each to the campaign. G-3 is owned by members of the Ernest & Julio Gallo wine family and has proposed a planned residential community, Lime Rock Valley, on nearly 750 acres south of Cameron Park Estates.

Reports suggest that District 3 Supervisor Brian Veerkamp was incensed when the ad was brought to his attention and wanted to "fire" Heflin without delay. However such action requires a majority vote, that is three supervisors, to remove a commissioner appointed by a majority vote of the Board of Supervisors.

The issue was included as a late addition to the board's Tuesday, Oct. 28 regular agenda as follows:

"Supervisor Veerkamp recommending the Board take the following action:

- 1) Accept the resignation or removal of Planning

■ See **M-N-O**, page A9

Mountain Democrat — Monday, November 3, 2014 — A7

## M-N-O

Continued from A1

Commissioner Tom Heflin with an effective date of October 24, 2014; and  
2) Direct the Clerk of the Board to post a Notice of Vacancy for the recruitment of a new Commissioner for District Three."

As recommended, item No. 13 would have been placed on the Consent Calendar, thereby limiting further discussion. Confirmed reports Tuesday morning said that Veerkamp had a change of heart and pulled the item from the agenda to "continue it off calendar." In board procedure, that means no future date has been determined to return the issue to the supervisors. Board options include doing nothing, removing Heflin by a majority vote, or as described by some as "least painful and disruptive," allowing Heflin to continue on the Planning Commission until January when supervisors traditionally nominate and

vote on new or continuing commissioners for the coming year.

Heflin told the Mountain Democrat Wednesday that he understood the District 3 supervisor was expected to release a statement soon and he would reserve comment until after that is made public. Veerkamp's assistant Kathy Witherow informed the Mountain Democrat that his office made a statement on Friday afternoon.

Veerkamp's statement includes a letter from Heflin explaining his involvement in the commercials and his belief that no conflict exists.

"We have discussed with our District 3 Planning Commissioner, Tom Heflin, our concerns and expectations moving forward regarding his participation in the recent political commercial against the current ballot measures. Commissioner.

Heflin has issued to us the following statement:

"Brian — I'm writing to you in regards to the commercial concerning Measures M-N-O. I understand you have been contacted by members of the public expressing diverse opinions on whether my participation conveys a conflict of interest or sense of bias concerning projects proposed by the sponsors. Any allegation of conflict or bias is simply not the truth."

Heflin goes on to note that he has served the county for many years in a number of roles including the Economic Commission, the Agricultural Commission and now the Planning Commission. "I have maintained the utmost integrity and fairly evaluated proposals only on the materials presented and public testimony taken," and, "I

intend to continue to do so," he wrote.

While stating that his participation does not reflect a conflict of interest or bias, he indicated that, in the future, he would recuse himself (in consultation with County Counsel) from participating in hearings "on pending or future development projects proposed by those entities."

"I regret the unintended perceptions that may now reflect on either of us and our commitment to El Dorado County," Heflin wrote in conclusion.

Veerkamp's response:

"Our Planning Commissioner and I will continue to work toward what is good and the right thing to do for El Dorado County, to the very best of our ability."

The board's agenda for Tuesday, Nov. 4 does not include any identifiable items that relate to this issue.

506  
128  
24



**Mark**

**From:** Mark [REDACTED]  
**Sent:** Thursday, October 30, 2014 1:09 PM  
**To:** Brian Veerkamp (bosthree@edcgov.us); Norma Santiago; Ron Briggs (bosfour@edcgov.us); Ron Mikulaco (bosone@edcgov.us); Shiva Frenzen (bostwo@edcgov.us)  
**Subject:** Fire Tom Heflin  
**Importance:** High  
 Supervisors -

There can be no compromise when such an egregious act of public vice has been committed. Of course, you set the standard very low when you allowed Supervisor Briggs to sandbag the yellow petition - "Restore Measure Y" - and voted to support him on it despite myriad constitutional violations. I let that pass because Briggs is terming out and it served my purpose to see all of you show yourselves for what you are.

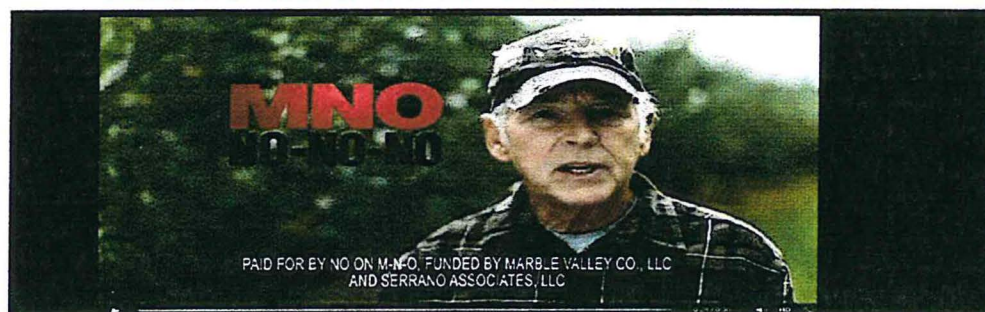
This is your chance to begin to restore some small semblance of public trust in the office of the Board. Mr Heflin has committed an obvious breach of ethics and is owned by those interests his board oversees. It doesn't get any more transparent than this.

You swore an oath to uphold the Constitution of the United States and I will not tolerate this behavior in my county. Do you really support this kind of behavior? If you let him stay, you are saying yes, you do approve.

*At the very least there should be a public vote so we can see where each of you stand!*

**POST AN ADDENDUM ITEM IF NECESSARY AND VOTE TO REMOVE TOM HEFLIN FROM OFFICE ON NOV 4th!**

This is Tom Heflin, Supervisor Brian Veerkamp's Planning Commissioner for El Dorado County District 3. Marble Valley and Serrano are both ventures of Parker Development. Why is a Planning Commissioner featured in an ad sponsored by a developer with a project pending in El Dorado County?



**Conflict of Interest?**

**Mark E. Smith**

**E-Mail:** [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**

11/4/2014

13 & 24

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# Mt. Murphy Bridge 'demise' a foregone conclusion?

By Rebecca Murphy

MANAGING EDITOR

After nearly two years of attending meetings on the auspices of providing "public input" into the demise or reconstruction of the Mt. Murphy Bridge in Coloma, Garden Valley resident Mark E. Smith became a stakeholder representative for the Divide and skeptical of the process and its potential result.

At a public meeting Smith held at the Garden Valley Fire Station 51 last Thursday, he told a small group of approximately six people that there is and has always been a preplanned outcome.

"In my opinion, they want to destroy the Mt. Murphy Bridge," said Smith, adding that in more than one alternative for a new bridge the Coloma Grange also could be destroyed. Both structures date back 100 years and are historical to the area.

"I attended the first meeting (Feb. 7, 2013) out of concern for the bridge and concern for private property," Smith said. "There were approximately 100 people at that meeting and 70 comments generated. The next thing I knew, there was an article in the Mountain Democrat (Feb. 12, 2014) with the headline 'County eyes new bridges.' There was information in that article that I never was told, and as a stakeholder you would think I would have known."

In the article written by Chris Daley, the article states that El Dorado County Board of "Supervisors voted unanimously (Feb. 4) to

accept the DOT recommendation to 'dismiss' any further study of rehabilitating the Mt. Murphy Bridge and to proceed on a contract with CH2MHill, an engineering consultant that has worked with the county several times."

Indeed, it would appear Smith is correct that the county would like to destroy the bridge, which could ultimately result in the destruction of the Coloma Grange, depending on which "alternative" is officially selected.

At the first meeting, Smith said he asked about the rerouting of Highway 49 and whether it would follow the bridge. An engineer was brought into the second stakeholders meeting to report that Highway 49 would not follow the bridge, but Smith said he believes they are "lying. They brought in the engineer because at that first meeting I beat them over the head with it, despite repeated California public records act requests."

"There is information they have that is just flat out not available to the public," he said, adding that it is not posted on the website or anywhere else.

At that second meeting, Smith said that the stakeholders were told it would cost from \$1.7 to \$6.7 million to "fix" the Mt. Murphy Bridge and that federal funds, which are being looked at to provide 100 percent of the money to "replace" the bridge, could not be used to rehabilitate the bridge. The Board of Supervisors, however, were told that federal funds could be used to fix it, resulting in con-

➤ see BRIDGE, page 8

## BRIDGE

flicting information.

Also at the second meeting of the stakeholders, Smith said the "criteria for alternatives" was explored and set up, but he said that the entire process already had a foregone conclusion.

"The whole idea for stakeholders, you would think, would be to get information from those who would be involved," he said, adding that a list of things unique to the local area was about the only information included in the criteria. In fact, the meeting itself was operated on the Delphi technique, which basically invites public participation and leads to the end result by a proficient group leader.

"The key tenet is that you break up into small groups and provide questions or ideas on notecards," said Smith. "It doesn't matter, though, because contrary information is omitted. The stakeholders had limited input and the public had none."

Smith said he is on record asking the CH2M Hill senior project manager, Leslie Bonneau, about the effect of public input on the critical Criteria Summary document. "So, if 500 people write you and say 'I don't want the new bridge,' it's gonna show up in here? That's what you're telling me?"

"No," answered Bonneau, indicating that public input has no effect on the project.

The third and final stakeholders meeting was held on Sept. 24 and resulted in a summary and the proposed "alternatives," which Smith said were not necessarily "agreed" upon by the stakeholders.

"The summary does make it sound like the stakeholders are for it (the demise of the bridge and rebuilding of a new one in a specific 'corridor')," he said. "(It also) states that the stakeholders asked questions; we didn't. We beat them over the head with it (the 'corridor' choices and alternatives). We didn't like it; we

wanted it changed, but they wouldn't change anything we recommended in the summary. No one agreed on anything."

"The screening criteria details are being kept from the public yet it forms the basis for everything that comes after it," he added. "I've been saying from day 1, why not build a skinny bridge (for traffic) and use the existing one for foot and bicycle traffic; they (the contractor and the county) will not talk about it," although at the Feb. 4 BOS meeting Supervisor Brian Veerkamp added a caveat to the motion that if "financially and structurally feasible, the county would like to retain the old structure as a pedestrian/cycling bridge."

"I believe (the county) does not want a maintenance problem (with the current bridge)," said Smith, adding that it is a historical structure and should not be destroyed. "They want to direct the flow of traffic to 'river right' and currently they can't, but as they acquire more property (particularly on the "Divide" side of the river, which Smith refers to as "river right"), they'll be able to do more. They are seizing land every chance they get. And (the county) just gave CH2M Hill another \$100,000 to keep going (on the bridge)."

According to Smith, there has been discussion on putting a competition kayaking course with bleachers at Henningsen-Lotus Park, but "they can't do it there because of the low flow." He added that they could, however, have that kind of course at Troublemaker, but it could require eminent domain land seizure, as could redirecting traffic across to "river right."

Smith said the next phase of the proposed changes for the Mt. Murphy Bridge is the Environmental Impact Study, and although the meeting is expected to be held in January 2015 at the Coloma Grange, but he said he would not be surprised to see it agendaized for a BOS meeting in December.

"Any and all public action can and should take place at the Board of Supervisors meeting," he said. "The public needs to be informed and get involved."

The website for information regarding the Mt. Murphy Bridge and related documents that are made available by the county is [edcgov.us/MtMurphyBridge](http://edcgov.us/MtMurphyBridge).



# 1 Example of How Bridge has been manipulated!

Mt. Murphy Road Screening Criteria

September 10, 2014

## Mt. Murphy Road Screening Criteria

Criteria	Performance Measures	Alt 1	Alt 2A	Alt 2B	Alt 3A	Alt 3B	Alt 4	Alt 5	Alt 6	Alt 7	Alt 8	Alt 9
<b>Historic and Cultural</b>												
H1	Minimize physical impacts to cultural/historic landmarks within the Mt. Murphy Corridor. <sup>1</sup>	5 3	5 1	5 1	5 2	5 2	5	5 3	5	5 2	5	5
H2	Minimize physical impacts to American River recreation use (Baby Beaches) in Mt. Murphy Corridor.	2	4	4	4	4	1	3	4	4	5	5
H3	Minimize physical impacts to Marshall Gold Discovery Park. <sup>7</sup>	2	1	1	3	3	5	1	4	2	5	5
Average Rating for Category		7.0	6.0	6.0	9.0	9.0	11.0	7.0	13.0	8.0	15.0	15.0
<b>Community Character</b>												
CC1	Maximize blending of bridge into existing setting.	2	4	4	4	4	2	2	1	4	1	2
CC2	Minimize disturbance to local vehicular circulation/mobility.	4	5	5	5	5	3	3	3	5	2	1
CC3	Maximize connectivity to walkways and trails for non-motorized travel.	5	5	4	5	5	3	3	3	5	2	1
Average Rating for Category		11.0	14.0	13.0	14.0	14.0	8.0	8.0	7.0	14.0	5.0	4.0
<b>Access and Operations</b>												
A1	Minimize impacts to peak season congestion along Hwy 49 through the Park.	1	1	1	1	1	5	1	4	1	5	5
A2	Minimize impacts to existing driveways.	1	3	5	5	5	1	5	3	3	3	1
Average Rating for Category		2.0	4.0	6.0	6.0	6.0	6.0	6.0	7.0	4.0	8.0	6.0
<b>Construction</b>												
C1	Minimize distance of detour route.	5	5	5	5	5	5	5	5	5	5	5
C2	Minimize noise/vibrations during construction to protect historic buildings. (Need to define which ones).	1	1	1	1	1	5	3	5	1	5	5
C3	Minimize construction activity close to residents and businesses.	4	2	2	3	3	1	5	2	2	2	1
C4	Minimize construction duration.	4	2	2	4	4	1	3	3	1	2	1
Average Rating for Category		14.0	10.0	10.0	13.0	13.0	12.0	16.0	15.0	9.0	14.0	12.0

The way screening criteria works, all are equal. Therefore, destruction of the historic bridge and the Grange have the same weight as a 4 mile detour during construction.

Performance measures and grading were NOT done by stakeholders... this is how the outcome has been rigged - corrupted to a pre-determined outcome!



Mt. Murphy Road Screening Criteria

September 10, 2014

Criteria	Performance Measures	Alt 1	Alt 2A	Alt 2B	Alt 3A	Alt 3B	Alt 4	Alt 5	Alt 6	Alt 7	Alt 8	Alt 9
<b>Safety</b>												
S1	Improve safety for motorized transportation crossing the river (bridge and approaches).	Safety characteristics defined as speed, sight distance, turning radius, lane width, barrier protection. 5=significantly improves safety for all design characteristics, 3=moderately improves safety, 1=does not address safety characteristics										
S2	Maximize safety for non-motorized transportation crossing the river (bridge and approaches).	Separation from motorized travel, connectivity to existing pedestrian facilities. 5=full separation from motorized travel with direct connection to existing bike/ped facilities, 3=partial/minimal separation from motorized travel, 1=no change from existing condition										
S3	Improve opportunities for emergency response access.	Directness to and from Mt. Murphy Road and Hwy 49, minimal risk of waiting at bridge to cross. 5=emergency access significantly improved, 3=emergency access minimally improved, 1=no improvement for emergency access										
S4	Minimize safety hazards for river users.	Clearance from structures/foundations for those using river and beach areas and location in river related to current and depth. 5=improves safety for users, 3=no change from current condition for users, 1=increases hazards for users.										
Average Rating for Category		15.0	15.0	12.0	15.0	12.0	12.0	15.0	17.0	15.0	14.0	8.0
<b>Environmental Resources</b>												
E1	Minimize impacts to viewshed from the bridge (focus on location and not bridge type). <sup>2</sup>	Number of impacts to viewshed: 5= no major change in current viewshed, 3=impacts in one or two viewshed areas that can be addressed, 1=major impacts that significantly alter the existing viewshed..										
E2	Minimize impacts to viewshed of the bridge (focus on location and not bridge type). <sup>2</sup>	Number of impacts to viewshed: 5= no major change in current viewshed, 3=impacts in one or two viewshed areas that can be addressed, 1=major impacts that significantly alter the existing viewshed..										
E3	Minimize impacts to wildlife habitat (turtle, eagle, river corridor wildlife). <sup>3</sup>	Number of impacts to wildlife habitats: 5= no major impacts/improves habitat, 3=impacts in one or two habitats that can be addressed, 1=major impacts that cannot be or are difficult to address.										
Average Rating for Category		11.0	15.0	15.0	15.0	15.0	5.0	9.0	6.0	15.0	3.0	3.0
<b>Right-Of-Way</b>												
R1	Minimize impacts to private land owners. <sup>4</sup>	Number of parcels required for R/W (partial takes included). 5=less than 3, 3=3-5, 1= more than 5										
R2	Minimize impacts to land owned by Marshall Gold Discovery State Park. <sup>4</sup>	Number of acres required for R/W. 5=less than 1, 3=1 to 2, 1= more than 2										
Average Rating for Category		7.0	9.0	9.0	7.0	7.0	6.0	7.0	4.0	9.0	6.0	6.0
<b>Project Alternative Estimate</b>												
M1	Minimize cost of project to ensure full funding through the HBP program. <sup>6</sup>	Planning level estimate (order of magnitude) 5= less than \$8M, 3=between \$8-\$20 M, 1=More than \$20 M.										
Average Rating for Category		3.0	3.0	3.0	3.0	3.0	1.0	3.0	3.0	3.0	3.0	1.0
Overall Corridor Rating (Perfect score = 110)		70.0	76.0	74.0	82.0	79.0	61.0	71.0	72.0	77.0	68.0	55.0

Notes:

- 1) Mt. Murphy Corridor is defined as the area on both sides of the river from Lotus Rd intersection to the bend in Hwy 49 upstream of Mt. Murphy Rd Bridge
- 2) Viewshed is defined as the aesthetic view or appearance of the corridor
- 3) Wildlife habitats are defined for turtles, eagles, and other aquatic species
- 4) Number of parcels required for R/W includes right of entry (ROE), temporary construction easements (TCE), as well as permanent R/W takes.
- 5) Aesthetics related to appearance of the river crossing (existing or new bridge).
- 6) Estimate must be less than \$20 million dollars to qualify for full funding from the HBP. Project estimates in excess of \$20 M are considered special category and required Caltrans approval to receive full funding from HBP.
- 7) The park includes property within the park boundaries as well as park facilities such as trails
- 8) The south end of Alternative 6 will be tied into the bike and pedestrian facilities in the Park. Signs will be required to direct bike/ped traffic off the bridge and on to the trails that lead into the Park.

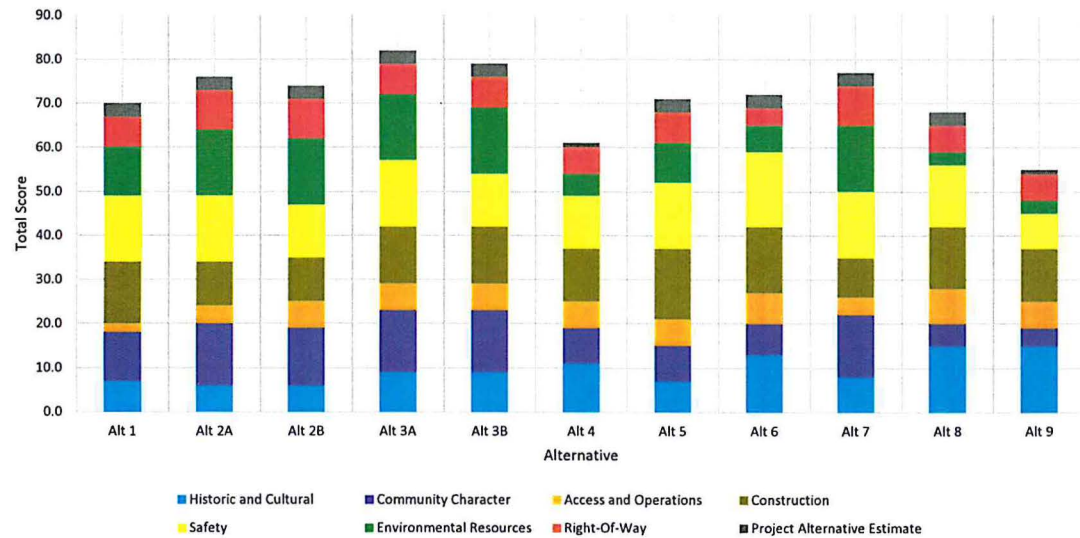
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## Mt. Murphy Road Screening Criteria - Scores by Category

Criteria	Alt 1	Alt 2A	Alt 2B	Alt 3A	Alt 3B	Alt 4	Alt 5	Alt 6	Alt 7	Alt 8	Alt 9
Historic and Cultural	7.0	6.0	6.0	9.0	9.0	11.0	7.0	13.0	8.0	15.0	15.0
Community Character	11.0	14.0	13.0	14.0	14.0	8.0	8.0	7.0	14.0	5.0	4.0
Access and Operations	2.0	4.0	6.0	6.0	6.0	6.0	6.0	7.0	4.0	8.0	6.0
Construction	14.0	10.0	10.0	13.0	13.0	12.0	16.0	15.0	9.0	14.0	12.0
Safety	15.0	15.0	12.0	15.0	12.0	12.0	15.0	17.0	15.0	14.0	8.0
Environmental Resources	11.0	15.0	15.0	15.0	15.0	5.0	9.0	6.0	15.0	3.0	3.0
Right-Of-Way	7.0	9.0	9.0	7.0	7.0	6.0	7.0	4.0	9.0	6.0	6.0
Project Alternative Estimate	3.0	3.0	3.0	3.0	3.0	1.0	3.0	3.0	3.0	3.0	1.0
<b>TOTAL SCORE (Perfect Score = 110)</b>	<b>70.0</b>	<b>76.0</b>	<b>74.0</b>	<b>82.0</b>	<b>79.0</b>	<b>61.0</b>	<b>71.0</b>	<b>72.0</b>	<b>77.0</b>	<b>68.0</b>	<b>55.0</b>

Total Score Contribution by Category



3084



## Bridge and Roadway Width Summary<sup>2</sup>

Alternative	Alignment Location	Two Lanes (feet)	Two Shoulders (feet)	Two Sidewalks (feet)	Bike Facility Class	Total Width <sup>5</sup>
1 <sup>5</sup>	Downstream	24	10	12	2	46'-0"
2A <sup>4</sup>	On Existing	24	10	12	2	46'-0"

MT. MURPHY ROAD BRIDGE PROJECT PHASE 1B -

ALTERNATIVES DEVELOPMENT SUMMARY - REVISED SEPTEMBER 1, 2014

2B <sup>1,3,4</sup>	On Existing	20	4	8 <sup>1</sup>	3	32'-0"
3A <sup>4</sup>	Downstream Adjacent	24	10	12	2	46'-0"
3B <sup>1,4</sup>	Downstream Adjacent	20	4	8 <sup>1</sup>	3	32'-0"
4 <sup>5</sup>	Upstream	24	10	12	2	46'-0"
5 <sup>5</sup>	Downstream	24	10	12	2	46'-0"
6 <sup>5</sup>	Downstream	24	10	12	2	46'-0"
7 <sup>4</sup>	On Existing	24	10	12	2	46'-0"
8 <sup>5</sup>	Downstream	24	10	12	2	46'-0"

**Table 2**

<sup>1</sup> Requires design exception for sidewalk less than 6'-foot minimum width

<sup>2</sup> Alternatives includes traffic calming features

<sup>3</sup> Southern approach includes separated pedestrian bridges to mitigate impacts to existing structures

<sup>4</sup> Requires removal of the existing bridge

<sup>5</sup> Requires removal of the existing bridge unless sources of funding, other than HBP funding, can be found to repair and maintain the existing bridge.

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Mark

From: [REDACTED]

Sent: [REDACTED]

**BROWN ACT VIOLATION**

To: norma.santiago@edcgov.us; Pamela Knorr; edc.cob@edcgov.us

Cc: judi.mccallum@edcgov.us; Vern Pierson; Jim Mitrisin; bosfive@edcgov.us; bosone@edcgov.us; bosthree@edcgov.us; bostwo@edcgov.us; 'Ron Briggs'

Subject: Brown Act Violations &amp; BOS Transparency and Accountability

Supervisor Santiago, et al,

It has come to my attention that a violation of the Brown Act took place yesterday morning at 8 AM when you permitted several members of the public to make public comments in praise and support of Terri Daly prior to Closed Session of the BOS. This opportunity for public comment was NOT posted to the agenda. Furthermore, the announcement of Ms. Daly's resignation did not take place until 2 PM when the BOS again reconvened into Closed Session.

Why was this extra public comment NOT put on the agenda in compliance with the Brown Act § 54954.2(a), § 54957.7(a), § 54956.9(b)(3) and § 54957.1???

<https://eldorado.legistar.com/Calendar.aspx>

[Board of  
Supervisors](#)

11/4/2014



8:00 AM

Board of Supervisors Meeting Room

In addition, yesterday Lori Parlin brought to your attention that the video of the 10/28/14 BOS meeting held in South Lake Tahoe still has not been posted for the public to view on the government website. How are citizens supposed to make informed choices, particularly during elections, if this important information is deliberately withheld from the public? As of 4:30 PM the video still is not available to the public:

It is apparent the Youth Commission was shielded from witnessing how dysfunctional El Dorado County really is. Local government is pushing the legal envelope by determining "*what is good for the public to know, and what is not good for the public to know.*" Not only was it a flagrant violation of your Oath of Office, it sets an unhealthy example for the future leaders of El Dorado County.

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## County of El Dorado

330 Fair Lane, Building A  
Placerville, California  
530-621-5390  
FAX 530-622-3645  
[www.edcgov.us/bos](http://www.edcgov.us/bos)

### MEETING AGENDA

#### Board of Supervisors

**BROWN ACT  
VIOLATION**

*Norma Santiago, Chair, District V*  
*Brian K. Veerkamp, First Vice Chair, District III*  
*Ron Mikulaco, Second Vice Chair, District I*  
*Shiva Frentzen, District II*  
*Ron Briggs, District IV*

*James S. Mitrison, Clerk of the Board of Supervisors*  
*Terri Daly, Chief Administrative Officer*  
*Robyn Drivon, County Counsel*

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Tuesday, November 4, 2014

8:00 AM

Board of Supervisors Meeting Room

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#### ADDENDUM

Item No. 41 is hereby added to the Consent Calendar.

Item No. 42 is hereby added to Closed Session.

Item No. 43 is hereby added to Closed Session.

The Board of Supervisors welcomes the El Dorado County Youth Commission for "Shadow Day".

#### Vision Statement

"El Dorado County will remain the leader in supporting our safe, healthy, and vibrant communities, wisely managing our natural resources, and preserving our local heritage."

BOARD MEETING ROOM EQUIPPED WITH AN AUDIO INDUCTION LOOP ASSISTIVE LISTENING SYSTEM.

Live Web Streaming of the Board of Supervisors Meetings, Agendas, Supplemental Materials and Minutes of the Board of Supervisors are available on the internet at:  
<http://eldorado.legistar.com/Calendar.aspx>

The County of El Dorado is committed to ensuring that persons with disabilities are provided the resources to participate in its public meetings. Please contact the office of the Clerk of the Board if you require accommodation at 530-621-5390 or via email, [edc.cob@edcgov.us](mailto:edc.cob@edcgov.us).

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Public Testimony will be received on each agenda item listed under Department Matters as it is called. Principal party on each side of an issue (where applicable) is allocated 10 minutes to speak, individual comments are limited to 3 minutes, and individuals speaking for a group are allocated 5 minutes. (Adopted 8/10/93) Except with the consent of the Board, individuals shall be allowed to speak to an item only once. Upon completion of public comment the matter shall be returned to the Board for deliberation. Members of the public shall not be entitled to participate in that deliberation, or be present at the podium during such deliberation, except at the invitation of the Board for a point of clarification or question by the Board. Matters not on the agenda may be addressed by the general public during the Open Forum. Public comments during Open Forum are limited to three minutes per person. The Board reserves the right to waive said rules by a majority vote.

Materials related to an item on this Agenda submitted to the Board of Supervisors after distribution of the agenda packet are available for inspection during normal business hours in the public viewing packet located in the foyer of Building A, 330 Fair Lane, Placerville or in the Board Clerk's Office located at the same address. Such documents are also available on the Board of Supervisors' Meeting Agenda webpage subject to staff's ability to post the documents before the meeting.

The Board of Supervisors is concerned that written information submitted to the Board the day of the Board meeting may not receive the attention it deserves. The Board Clerk cannot guarantee that any FAX, email, or mail received the day of the meeting will be delivered to the Board prior to action on the subject matter.

The Board meets simultaneously as the Board of Supervisors and the Board of Directors of the Air Quality Management District, In-Home Supportive Services, Public Housing Authority, Redevelopment Agency and other Special Districts.

For Purposes of the Brown Act § 54954.2 (a), the numbered items on this Agenda give a brief description of each item of business to be transacted or discussed. Recommendations of the staff, as shown, do not prevent the Board from taking other action.



8:00 A.M. - CALL TO ORDER AND RECESS TO CLOSED SESSIONS

9:00 A.M. - RECONVENE TO OPEN SESSION AND CLOSED SESSION REPORTS

INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG

ADOPTION OF THE AGENDA AND APPROVAL OF CONSENT CALENDAR

The Board may make any necessary additions, deletions or corrections to the agenda including moving items to or from the Consent Calendar and adopt the agenda with one single vote. A Board member may request an item be removed from the Consent Calendar for discussion and possible action, and the item will be moved from Consent and heard as a separate item with Department Matters. Any member of the public may ask to address an item on the Consent Calendar prior to Board action.

OPEN FORUM

CAO UPDATE

Public comment was allowed in support of CAO Terri Daly without required notice or agenda addendum - NO ONE could speak in opposition! This is a flagrant violation of the Brown Act and at least the 1<sup>st</sup> and 14<sup>th</sup> amendment of the Constitution.

← NO Public  
Comment  
on Agenda -  
NO public comment  
Allowed in the rules -



THIS is why the CAO  
WAS FIRED and should be

## THE BALANCING ACT by Larry weitzman

**PROSECUTED**

### Arrogance, incompetence and abuse of power

**T**his column's theme for the last several months has been about mismanagement within the Chief Administrator's Office and it goes right to the top. It all started with the climate of fear and the unfounded claims made by the county's Chief Administrative Officer. Then it went into the CAO's hiring practices in recruiting people who, by their past history, were clearly incompetent and perhaps with a little spoils system thrown in. Next it has gone to the huge budget deficits (\$25 million or more annually) that are becoming apparent because of an excess of hiring new employees, massive spending on outside consultants and recommending huge raises for county employees including the CAO and the Assistant Chief Administrative Officer. Now those deficits look to be even larger because of potentially overstated revenue projections, but that will be for a later column.

If you thought it couldn't get any worse, it has and it goes to the actions of the then-acting head of the Community Development Agency and now Assistant CAO, Kim Kerr, at the time they occurred. What could she have



**Now comes the cover-up. It appears that the CAO plans to place an item on the next BOS calendar attempting to get retroactive approval for the acts of the ACAO by simply ratifying her actions.**

done that was so bad? How about authorizing contract change orders well beyond her authority and spending money without the required procedures and approval of the Board of Supervisors. And it just didn't happen once. According to county documents it happened on at least seven Capital Improvement Programs, including

projects like the U.S 50/Missouri Flat Road Interchange and several Green Valley Road improvements.

Pursuant to Section 20142 of the California Public Contract Code and conforming Board Of Supervisors Resolution 102-2012 passed on July 24, 2012, (it superseded BOS resolution 106-93), change orders subsequent to the award of a contract are limited in their amount to 10 percent of the original contract amount except when the original contract is in excess of \$250,000 which in that case the limit of total change orders is \$25,000 plus 5 percent of the original contract amount not to exceed \$210,000, no matter the original amount of the contract. Any contract less than \$50,000 has a \$5,000 change order cumulative limit. Actually, it is an easy concept to understand, except for our current Assistant CAO Kim Kerr, who either intentionally or negligently ignored the law. Either way there is no excuse.

These violations became public when a County of El Dorado Document Master Report, File No. 11-1196 enumerated the various violations of the Public Contract Code. In that Master Report, it lays out that these illegal Contract Change Orders totaled 48, as much as 48 times that the head of the CDA at the time issued 48 change orders that exceeded her statutory authority. Payments have been

■ See **WEITZMAN**, page A10

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made on 36 of these illegally issued CCOs, but 12 are still outstanding and unpaid.

Those 48 illegal CCOs that were illegally authorized total \$1,295,559. Records show that most were signed by Kim Kerr as acting CDA Director but other county staff are involved, as each CCO requires at least four signatures starting with the Resident Engineer, Assistant Director, Director of Transportation and the (Acting) CDA Director.

Someone within the CAO's office (the CDA operates within the CAO's office) discovered these mistakes and without BOS retroactive approval, not only will these CCOs remain illegal, but the 12 remaining unpaid CCOs will remain unpaid without BOS ratification of the prior acts. But that doesn't excuse the actions of certain county official(s) who approved these CCOs without BOS approval.

There are two people upon which these illegal actions fall upon. The "buck" stops with ACAO, Kim Kerr, who headed the CDA during this period and the CAO herself, Terri Daly. They should know the rules as Resolution 102-2012 was passed on July 24, 2012, in open session by a 5-0 vote of the BOS and Terri Daly's name appears on the document attesting to the resolution. Daly and Kerr were well aware of the rules and laws governing change orders. But it looks like they didn't think these rules were very important as one or both of them violated the California Public Contract Code and BOS resolution 48 times.

Zebras don't lose their stripes and the modus operandi of ACAO Kim Kerr hasn't changed. Her slipshod management style as the recent city manager of the City of Ione is obviously apparent in her actions as EDC's ACAO. Kerr as Ione city manager failed to reconcile Ione's bank accounts for over two years and Amador County Grand Jury reports called her incompetent, saying that "the City Manager for the fiscal period 2007-2011 (Kim Kerr's tenure) did not demonstrate she possessed the proper qualifications and expertise to perform the duties required for that position." (See Balancing Act June 16, 2014, and Amador County Grand Jury Report 2012.)

Now comes the cover-up. It appears that the CAO plans to place an item on the next BOS calendar attempting to get retroactive approval for the acts

of the ACAO by simply ratifying her actions. It will be interesting if this item shows up under the consent calendar with Daly trying to slip it through and hiding it from the BOS and the public, just like Daly did during her tenure as Amador County CAO, sticking Amador County with a \$20 million lease they didn't need (see Balancing Act July 7, 2014). You see, Terri Daly is responsible for hiring Kim Kerr and giving her a raise in salary while knowing of her past "indiscretions" as city manager of Ione. Daly is responsible for Kim Kerr's actions as an employee of EDC.

Then there is the issue if these potential violations of the California Public Contract Code rise to the seriousness to cause an investigation by the district attorney. Public Officials are given the public trust and need to be held to a higher standard just as former District 2 Supervisor Ray Nutting was. His misdemeanor violations of the law cost him his job and a whole lot more.

In another twist of fate, it appears that Municipal Resources Group, a company that was hired for the sum of \$250,000 to eliminate the "climate of fear" and create a "Climate Action Plan" in EDC, hasn't been paid.

In a letter to the BOS it seems that CAO Terri Daly signed, pursuant to BOS approval and at her request, a contract of which she has neglected to pay invoices totaling \$63,356 for the months of July, August and September. The purpose of the contract was to address the alleged problems supposedly enumerated in the "Climate of Fear" study created by the law firm of Van Dermeyden Maddux, a study which cost \$140,000.

The Balancing Act analysis of the Van Dermeyden Maddux study said if there is a climate of fear in EDC government it starts and ends at the top, in the CAO's Office (see Balancing Act May 19 and June 2, 2014). The question becomes why wouldn't the CAO submit these invoices to the County Auditor for payment? Could the reason be that the CAO didn't like the preliminary information received from MRG. Perhaps they are pointing the finger in a direction Daly doesn't like, proving prior Balancing Act columns correct.

Thank you Terri Daly for flushing \$390,000 down the toilet looking for answers which you already knew by looking in the mirror.

*Larry Weitzman is a resident of Rescue.*

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More and more, it appears law enforcement have been transformed from friendly peace officers, whose mission is to protect and serve, into a hostile military force, whose mission is to harass and intimidate. Far too many officers have abused and misused the trust that the American people have placed in them. Criticizing the Sheriff in any way brings immediate and vehement accusations that one is against law and order.

Today many officers have developed an "I-have-a-badge-and-a-gun-and-therefore-I-can-do-anything-I-want" attitude. Many peace officers seem to feel that the law they are sworn to enforce is whatever they determine the law to be. The American people are not doing a very good job of electing these kinds of politicians, including the Sheriff's Office. The Sheriff is a constitutionally elective office answerable directly to the public.

Many of you may recall the 7 candidates and the intense controversies that sprang up during the 2010 Sheriffs campaign. EDC was ripe for a change in Law Enforcement. Citizens were hopeful for a change in the deeply imbedded "us versus them" mindset that plagued EDC for decades. When John D'Agostini made his cell phone available to the public many of us rallied behind him in the hope that we were getting our own version of Sheriff Joe Arpaio. Not only did I help campaign to get him elected to office, at his request I supported Sheriff John and his wife in prayer via my Capitol ministry connections throughout CA.

The following is a quote made by Sheriff D'Agostini during a news interview relevant to the Public Records Act request made by CBS13:

"I don't want to rest on my laurels because we're ahead, but I want to win by a lot," said D'Agostini during a speech to the Hells Angels biker gang at PJ Saloon in Placerville. He also said, "I have it, and I'll say it. I know there is ladies in the room, but I have the balls to step up and tell it like it is."

Those statements are mild in comparison to what came next. D'Agostini told the group how he and his undersheriff would handle a deputy who violated someone's civil rights.

"I guarantee within 72 hours of me taking office on January 11, 2011, someone is going to step up and test the waters. How I handle that is going to set the tone for the next eight, 12, 16 years of my administration. Me and this person don't have any problem with cutting somebody's head off, holding it up on a pole and parading it around and say this will not be tolerated."



A few months after he was elected **Compass2Truth** began scheduling regular meetings with Sheriff D'Agostini to address specific issues within the Coloma Lotus region. You'll recall his quote from our first meeting, *"You need a new board. All of them. Hold their feet to the fire. Mine too. I work for you."*

Now I'd like to segue into Sheriff D'Agostini's broken campaign promises, staff misconduct, and the toxic attitude that we elected him to purge from EDSO.

Last Wednesday I went over to EDSO to file trespassing charges and a citizen's complaint. While waiting 80 minutes in the lobby for a deputy to accept my report the cameraman for **"Sheriffs of EDC"** sat next to me. He was given VIP treatment but in violation of my civil rights I was discriminated against like a second-class citizen.

Contrary to what many people may believe, EDSO does NOT have authorization to enter PRIVATE PROPERTY without cause, a warrant, or prior notification. It is an invasion of privacy protected by the Constitution. Violations of civil rights, particularly the 1<sup>st</sup> & 4<sup>th</sup> Amendments, are happening regularly in EDC but these abuses are going unreported by the media. The public has a right to know the this information.

The following excerpt is from the transcript of my 3-minute dialog with Deputy Culver:

**Melody:** I'm asking you to accept that (indicating the letter & evidence).

**Culver:** I'll, I'll be honest, I'm going to throw it away. I'm not going to do anything with it.

**Melody:** And this is for Sheriff D'Agostini. I'm asking that you deliver this to Sheriff D'Agostini...

**Culver:** (interrupting) No. No I will not.

**Melody:** I'm asking that you accept this into the record.

**Culver:** No I will not. I will not. No.

**Melody:** You're depriving me of my rights?

Bureaucrats are seldom known for any kind of allegiance to Constitutional government. Sheriff D'Agostini needs to own up to his campaign promises. Instead of wasting resources on **"Sheriffs of EDC"** Sheriff John should set a realistic example by parading Deputy Culver's head around on a pole saying, "This will not be tolerated."

**Mr./Madam Clerk:** Please enter the full 3-minute transcript, the letter addressed to Sheriff D'Agostini and these documents into the public record:

- 1) This transcript – 5 min. 10 sec.
- 2) 11/10/14 Trespass letter to Sheriff D'Agostini
- 3) 11/12/14 3-minute transcript of Deputy Culver dialog
- 4) 9/23/10 CBS13 **Sheriff Candidate's Statements Under Microscope**

CC: D.A. Vern Pierson



*Melody Lane*  
*P.O. Box 598*  
*Coloma, CA 95613*  
*(530) 642-1670*  
[melody.lane@reagan.com](mailto:melody.lane@reagan.com)

November 10, 2014

Sheriff John D'Agostini  
El Dorado County Sheriff's Office  
300 Fair Lane  
Placerville, CA 95667

**TRESPASSING CHARGES**  
**Against**  
**Detectives Natasha Gallagher & J. Densmore**

Dear Sheriff D'Agostini,

On **November 10, 2014 at 1:11 PM** I received the following message on my home answering machine:

*"Hi, I'm trying to get in contact with Melody Lane. My name is Detective Gallagher. I'm with the El Dorado County Sheriff's Office. If you could please give me a call I would love to speak with you as soon as possible. You can reach me at 530-642-4720. Uh, when you call I would like to speak with you, I'm looking into a matter you brought to our attention and I would like to meet with you if at all possible, so do please give me a call when you get a chance."*

**BACKGROUND:** Coloma-Lotus residents have experienced an upsurge in the numerous incidents involving **armed intruders**, thefts, harassment, poaching, intimidation, vandalism, arson, shootings, and apparent drive-by casing of homes. Understandably neighbors have become very sensitive about un-announced visitors and trespassers. No Hunting and No Trespassing signs are posted approximately every 100 feet around the perimeters of my 10 acre property.

Since the Sheriff's Office has been reticent to respond appropriately in a timely manner to calls for assistance neighbors have made a concerted effort to check up on each other. Contributing to the problem is the fact that EDSO has discriminated against a single senior citizen and evangelical minister by blocking my email. In essence I've been deprived of the right to due process and unobstructed access to staff involving matters under EDSO jurisdiction. It is the duty of law enforcement to be responsive to constituents, especially those involving **public safety**. Such abuse of the public's trust is inconsistent with the EDSO Mission Statement and Vision.

\*\*\*

Around two o'clock on Monday a neighbor dropped by my home. A few minutes later we heard the alarm indicating someone was at the front gate. We went to the window and saw an armed man and a woman in plain clothes walking up the driveway towards the front door. Photos revealed they crawled through the gate without opening it. **(See Exhibit A)**

We witnessed an unmarked, tan Ford SUV parked on Mt. Murphy Road facing my neighbor's automobile outside the gated entrance to my driveway. I was disturbed that the intruders had ignored the following sign posted at the front gate:

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## NO TRESPASSING

UNAUTHORIZED ENTRANCE UPON THIS PROPERTY CONSTITUTES AN IMMEDIATE THREAT TO THE OCCUPANTS OF THIS LAND. VIOLATORS WILL BE PROSECUTED.

**CA PENAL CODES: 602.8, 601PC, 602C, 602H-K, 602L, 602M-0**

An eight minute conversation took place. A transcript of that dialog is attached as a notarized Sworn Affidavit of Fact. **(See Exhibit B)**

**I demand my right to press charges against detectives Gallagher and Densmore for the following causes:**

1. Detective Gallagher made no indication in her phone message which one of the numerous EDSO issues she wished to discuss, nor did she suggest a time and date to meet with me.
2. There was no reasonable effort to obtain information or cause for two EDSO detectives to drop-by my home unannounced without obtaining my prior consent. **(See Exhibit C)**
3. Detective Gallagher and Densmore failed to provide advance notice in order to obtain authorization to enter my posted private property or to state their specific purpose. Refer to Penal Code Sections 1524 (a-k) – 1527.
4. Their demand that I immediately produce an audio CD concerning the 4/4/14 Deputy Cissna incident is a violation of my 4<sup>th</sup> Amendment right “...to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall be issue, but upon probable cause supported by Oath and affirmation, and particularly describing the place to be searched, and the person or things to be seized.” The audio CD they are seeking is available via District Attorney Vern Pierson.
5. My domicile is PRIVATE PROPERTY. In the event their presence is requested *at my invitation*, a history of EDSO misconduct necessitates my right to pre-arrange to meet law enforcement out at my gate on Mt. Murphy Road. This matter has been discussed at length with EDSO and the MGDSHP staff. **(See Exhibit D)**
6. In light of the **communication breakdown with EDSO**, the unwelcome intrusion of two detectives upon my private domicile was a violation of the following CA PENAL CODES: 602.8, 601PC, 602C, 602H-K, 602L, 602M-0.

Sincerely,

Melody Lane

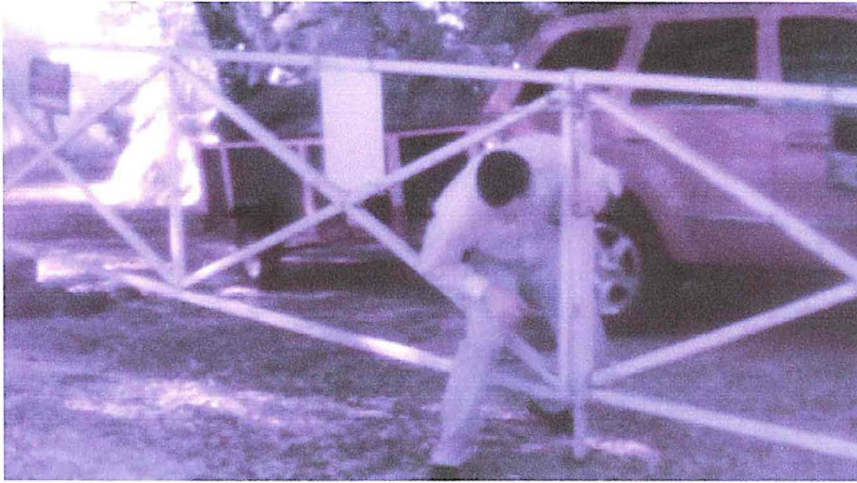
CC: District Attorney Vern Pierson

Enclosures: Exhibit A - Trespassing photos  
Exhibit B – Notarized, sworn Affidavit of Fact  
Exhibit C - Business cards - Detectives Netasha Gallagher & J. Densmsore  
Exhibit D – Rescind EDSO Access to Property dated 12/5/12

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11/11/14 @ 2:28 PM Detectives Netasha Gallagher & J. Densmore - TRESPASSING



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## **SWORN AFFIDAVIT OF FACT**

BELOW IS THE SWORN AFFADAVIT OF FACT BY **MELODY L. LANE**, THE ACCURATE TRANSCRIPTION OF AN 8-MINUTE CONVERSATION THAT TOOK PLACE NOVEMBER 11, 2014 INVOLVING DETECTIVES **NETASHA GALLAGHER AND J. DENSMORE**.

I, Melody L. Lane, being over 18 years of age, am hereby competent to testify to the following:

**On Monday, November 11, 2014 at approximately 2:38 PM** Detectives Netasha Gallagher and J. Densmore trespassed without providing prior notification or obtaining my authorization to enter my property. The following is a true and accurate transcript of our 8-minute audio recorded conversation.

**Melody:** Hi, can I help you?

**Gallagher:** Hi, is Melody available?

**Melody:** I am.

**Gallagher:** I'm Detective Gallagher with the Sheriff's department.

**Melody:** Uh, I didn't receive a call that you were coming here. I did receive your phone message earlier...

**Gallagher:** (interrupting) I did leave a message and thought I'd drop by.

**Melody:** (struggling with the dog trying to get out the door) Angel, OK, Angel...

**Gallagher:** What a beautiful dog.

**Melody:** I just want you to know that without announcing yourself you are not authorized to be here. May I ask what the nature of your business is here?

**Gallagher:** Absolutely. It is my understanding that you expressed some concerns in writing about some contact with some of our deputies, and it was in regard to your contact with them...Uh, is that a recorder?

**Melody:** Yes it is.

**Gallagher:** So you're recording right now?

**Melody:** Yes I am.

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**Gallagher:** OK. So long as we're on the same page with that, you submitted a dialog of a recording.

**Melody:** Are you talking about Deputy Terri Cissna?

**Gallagher:** I am.

**Melody:** OK.

**Gallagher:** So I'm here in regard to these writings you submitted and you, uh, have expressed your concerns and it goes over various things. Anyways, I'm looking into that and you've got a dialog here and an audio recording. I'd like to know if I can get a copy of that recording?

**Melody:** You will be getting a copy of that recording; however it will be through Vern Pierson's office.

**Gallagher:** Ok, just so you know.

**Melody:** OK, he's already aware of that. We've already taken this to Vern Pierson's office and he's waiting for that audio and some other materials. Right now that's all I care to discuss with you in regard to this because the Sheriff has been unresponsive. You should also know this has been brought in front of the Board of Supervisors on numerous occasions but the Sheriff has cut off my correspondence. I've had armed individuals here on my property and we've had problems with the Sheriff refusing to respond to calls for assistance and for harassment by the Coloma Resort and other individuals here too. So this is something that goes way beyond Terri Cissna, than just a complaint with Terri Cissna.

**Gallagher:** OK, like I said I AM from the Sheriff's department and I am trying to look into that matter. I'm responding to something that has been submitted to our Sheriff's department and I'm trying to look into that matter. That's why I'm here right now. That's why I tried to contact you. To further do that, because you've expressed concerns, and I'm trying to look further into that, I would like to have that copy of the audio to corroborate what you wrote here (paging through papers).

**Melody:** I understand that, but if you understand what I just said, that audio will be provided to District Attorney Vern Pierson and you can obtain it from him.

**Gallagher:** So are you refusing to give it to me?

**Melody:** I'm not refusing to give it to you. I am providing it to the District Attorney and you can get it from the District Attorney. He's waiting for other documentation relevant to that.

**Gallagher:** OK, just to clarify as far as me being here, you're not going to provide me with a copy of it.

**Melody:** I will not right now but I also want to make it clear that I'm asking you to leave my property because you are not here with my authorization. You did not announce yourself.

**Gallagher:** Well, with law enforcement, when we're looking into an investigation and investigating things...

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**Melody:** You do not have the right to enter my property, as per the sign that is out front, without my authorization.

**Gallagher:** OK. So when you do address an issue or when you have a complaint or something such as this that you submitted to our department, how DO you expect the Sheriff's Department to...

**Melody:** You can call me or you can email me. The problem is I can't email you back. Lt. Golmitz is very aware of that, and so is the Sheriff.

**Gallagher:** My business here is to look into something you submitted into our department. If you don't want to further help me at this point then...

**Melody:** I'm not being uncooperative. What I'm saying at this point...

**Gallagher:** (interrupting) I asked you for a copy of it...

**Melody:** ...this has gone to a higher level.

**Gallagher:** (talking over me)...don't want to provide me with it.

**Neighbor:** Let's try to de-escalate this just from a technical standpoint. She'd have to find her recorder, turn her computer on, download it to the computer, get it on a CD or something like that. It's not as easy as providing you a copy of an audio tape.

**Gallagher:** It's something we could assist with.

**Neighbor:** It's not that simple. Well then she'd have to allow you in the home, and that's not going to happen.

**Gallagher:** OK. What's your name sir?

**Neighbor:** I'm not going to provide you any information.

**Gallagher:** OK...

**Neighbor:** It's just that I'm trying to de-escalate the situation.

**Densmore:** So Ms. Lane, when can we expect to hear from the District Attorney, Mr. Pierson, about obtaining a copy?

**Melody:** Hopefully within the next several days. So could I have...

**Densmore:** (interrupting) So when you say several days, does that mean...

**Melody:** ...could I have your cards please, from both of you?

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**Densmore:** ...so you mean seven days?

**Melody:** I've got several things going on right now. I'm not going to give you an actual date right now. I've got numerous issues I'm dealing with.

**Densmore:** So first thing on Monday?

**Gallagher:** Bottom line you don't have the recording right now.

**Melody:** I don't have it right now.

**Gallagher:** (interrupting) We're going to grant your request to go off your property right now. If you'd like my business card then please follow me OFF your property and I'll get you one from my vehicle.

**Melody:** I would like one from both of you please.

**Neighbor:** (following them out to the gate) So are you looking to close your investigation by a certain date or something like that?

**Melody:** They can't complete their investigation without the recording.

**Gallagher:** You can only do so much with what you have. So right now I don't have the audio to corroborate what you have on this sworn affidavit of fact.

**Melody:** Well, the sworn affidavit of fact that should pretty much satisfy anything.

**Gallagher:** Well this is what you STATE is sworn...(inaudible, expressing doubt)

**Melody:** It's a sworn and notarized affidavit of fact that is admissible in a court of law.

**Neighbor:** (deputies crawl through gate) So if you don't mind my asking, what is the law about entering private property?

**Densmore:** I'm sorry sir, you haven't identified yourself. You haven't been too cooperative with us and our business here with Ms. Melody Lane. So if you have questions after the fact I think we'd be more than willing to assist you but right now we're handling this incident at the moment. OK? (hands me his business card)

**Neighbor:** That's fine.

**Melody:** By the way, the law is right there (indicating the posted sign – see photos.)

**Densmore:** Those are trespassing sections, subcategories.

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**Neighbor:** I'm just trying to...(inaudible)

**Gallagher:** (handing me her business card) Here ya go.

**Densmore:** We're just trying to help her out.

**Neighbor:** I understand that. And I just want to help you out as much as can be...

**Densmore:** (interrupting) We don't know who you are or what your involvement here is. Our business here is with Ms. Lane.

**Melody:** He's a concerned citizen and a good neighbor.

**Neighbor:** I've come before the board on many occasions. Am I acting in an irrational fashion?

**Densmore:** No. Our business here is not with you. There's no reason to be argumentative.

**Melody:** He's not being argumentative.

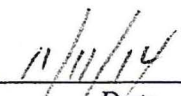
(Detectives enter SUV and drive off down the road)

### End of Transcript ###

###

*I, Melody L. Lane, being first duly sworn on oath according to law, deposes and says that I wrote the 5-page AFFIDAVIT above and that the matters stated herein are true to the best of my information, knowledge and belief, so help me God.*

  
\_\_\_\_\_  
Melody L. Lane

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Notary Public for California

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# Jurat

State of **California**  
County of **El Dorado**

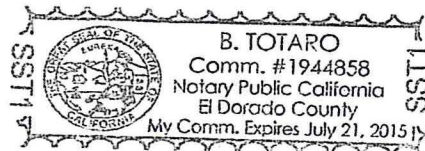
} SS.

Subscribed and sworn to (or affirmed) before me on this 11 day of November

20 14 by Melody J. Lane

personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

B. Totaro  
Notary Public Signature



## OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

(Additional information)

### INSTRUCTIONS FOR COMPLETING THIS FORM

Any Jurat completed in California must contain verbiage that indicates the notary public either personally knew the document signer (affiant) or that the identity was satisfactorily proven to the notary with acceptable identification in accordance with California notary law. Any jurat completed in California which does not have such verbiage must have add the wording either with a jurat stamp or with a jurat form which does include proper wording. There are no exceptions to this law for any jurat performed in California. In addition, the notary must require an oath or affirmation from the document signer regarding the truthfulness of the contents of the document. The document must be signed AFTER the oath or affirmation. If the document was previously signed, it must be re-signed in front of the notary public during the jurat process.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the jurat process is completed.
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different jurat form.
  - ❖ Additional information is not required but could help to ensure this jurat is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
- Securely attach this document to the signed document

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11/12/14 2:15 PM – Deputy Culver @ EDSO re: 11/10/14 Trespassing incident.

**Melody:** These are the photographs that I have of the individuals. Now you're not going to like this I'm sure, but this is just for the record. I've got the identification of the individuals.

**Culver:** How'd you identify them?

**Melody:** Hold on, I'm trying...(paging through papers)...Here. (handing photos). And here's a sworn affidavit of fact that is addressed, that will give you the entire details (indicating letter & evidence).

**Culver:** Well, those are Sheriff's deputies 'mam.

**Melody:** Yes they are. Uh, they're actually detectives.

**Culver:** Yeah. Uh, yeah they're detectives. Uh...

**Melody:** Just so you know, they came onto my property unannounced...

**Culver:** (interrupting) OK.

**Melody:** ...and there's this...

**Culver:** (interrupting) OK, let me ask you this real quick. Did they leave, um, when you told them to leave?

**Melody:** They did, but there're some other circumstances you need to read in there. There is a letter attached to that along with a transcript of...

**Culver:** (interrupting) Who transcribed the transcript?

**Melody:** I did.

**Culver:** OK. I'll be honest with you real quick. Your trans-transcript-tion of the conversation is not admissible in court.

**Melody:** Yes it is, if it's an afi...

**Culver:** (interrupting, stuttering)...Well first of all it's biased because it's your trans, if you had, if you had a conv...

**Melody:** OK, well uh...

**Culver:** (interrupting) Let me, let me finish mine, then we'll go back and forth. Um, is this an, uh, you recorded this I take it?

**Melody:** Yes I did.

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**Culver:** What you need to do then, ah, is take it to a court reporter or someone who does transcription. Cuz what they're going to say, uh, in court is, um, it's biased by you because it's transcribed by you. Uh, but if it's transcribed by a third party, then that's gonna be a whole different thing.

**Melody:** OK, but what you do need to know is this is notarized. It's uh, it's taken under oath. It's it's sworn. It's taken under oath, and um, all the evidence is in...

**Culver:** (interrupting) OK, all a notary does is, all a notary can do is, you presented, you showed the notary your identification. Right?

**Melody:** Yes.

**Culver:** OK. A notary is just swearing to your signature.

**Melody:** I used to be a notary. I'm totally aware, and that transcript IS admissible in a court of law. And there are circumstances on there that Sheriff D'Agostini is aware of. That letter is addressed to him and that's...

**Culver:** (answering radio) ...(unintelligible)...Code 4.

**Melody:**...that is um, part of um, conversations we've had with the Sheriff...

**Culver:** (interrupting) OK.

**Melody:** The letter that is addressed to him should give you everything you need to know. But what I'd like to do, and I've made that very clear on there, I would like to press charges and I've listed the reasons that are on there.

**Culver:** (interrupting) I'll tell you right now, uh, what are the elements of trespassing? Do you know?

**Melody:** Yes I do, and the government codes are on here...

**Culver:** (interrupting) OK.

**Melody:** I'm not here to discuss the law with you. I'm here to submit this and just asking you to accept that and um, you can...

**Culver:** (interrupting) OK, uh, how, however, I will take it, but I have no, um, aaah, there's no crime. Um, because, I will tell you why. Because trespassing requires people to refuse to leave. They have to be told to do so.

**Melody:** OK, before, before you make a judgment on this or give me any advice, please read that and you can give that to the Sheriff. I'm just entering that into the record...

**Culver:** (interrupting) OK.

**Melody:** ...and this is...

**Culver:** (interrupting) There's, there's no record.

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**Melody:** Well I'm entering it into the record that I've submitted it. I don't know if you want to assign a case file to it or whatever, but a copy of this has already gone to Vern Pierson...

**Culver:** (interrupting, stuttering) I'm, uh, OK. Great.

**Melody:**...Just so you know I'm doing my due diligence on here and I'm, um, requesting my right to press charges for, er, for the following reasons that are enumerated on there...

**Culver:** (interrupting, stuttering) ...First, first of all, you as a citizen, don't press charges.

**Melody:** Well, I...

**Culver:** (interrupting, garbled)...

**Melody:**...call, call it a citizen's arrest, or whatever it is...

**Culver:** (interrupting) It's, it's not a citizen's arrest. First of all, the key element to trespassing is, is that they refuse to leave after being told to do so. Is that correct?

**Melody:** That's ONE of the key elements. The...

**Culver:** (interrupting) So...

**Melody:** ...the key is they were not AUTHORIZED...

**Culver:** (interrupting) Well...

**Melody:** ...to enter my property. The details are on there. We don't need to get into any kind of debate about this. I'm just asking...

**Culver:** (interrupting) Well, uh, you and I are, uh aren't getting into a debate because first of all...

**Melody:** I'm asking you to accept that (indicating the letter & evidence).

**Culver:** I'll, I'll be honest, I'm going to throw it away. I'm not going to do anything with it. You've already sent a copy to Vern Peterson.

**Melody:** No, Vern Pierson.

**Culver:** Vern Pierson.

**Melody:** And this is for Sheriff D'Agostini. I'm asking that you deliver this to Sheriff D'Agostini...

**Culver:** (interrupting) No. No I will not. And I'll tell you why. Because then I act as your agent in a civil matter.

**Melody:** No. No you are not. You are here as a civil servant and I'm asking that this be delivered...

**Culver:** (interrupting) No, no. You can mail it to the Sheriff.

**Melody:**...to Sheriff D'Agostini.

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**Culver:** (interrupting) No. No I will not.

**Melody:** I'm asking that you accept this into the record.

**Culver:** No I will not. I will not. No.

**Melody:** You're depriving me of my rights?

**Culver:** First of all there is no record.

**Melody:** I'm making a record it right here with this. (indicating the documents)

**Culver:** First of all, 'mam...First of all there's no crime. There's a Sheriff's office here.

**Melody:** I'm not...

**Culver:** OK. You're gonna continue to talk over me and I'm not gonna talk to you.

**Melody:** OK. Fine. (Getting up to leave)

**Culver:** OK. OK. Good luck to you. (follows me out the door).

**Melody:** But I will submit this to...

**Culver:** (following me to lobby clerk) You're more than welcome to.

**Melody:** (to EDSO clerk). Would you please, um, see to it that Sheriff D'Agostini gets this?

**Clerk:** I can. Uh-huh. (Clerk & Culver exchange looks)

**Melody:** And would you please date stamp it as well?

**Clerk:** I can do that. (stamps letter)

**Melody:** Thank you. Thank you very much.

# End of Transcript #

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# Sheriff Candidate's Statements Under Microscope

■ [More Local News](#)

Sep 23, 2010 4:59 pm US/Pacific



CBS13 Reporting

[David Begnaud](#)

SACRAMENTO (CBS13) —

An El Dorado County sheriff's candidate was caught on tape saying some very interesting things. Now that candidate is calling out the current sheriff, and says that releasing the tapes is just a political ploy.

John D'Agostini wants to be the next El Dorado County sheriff and has the backing of several out-of-town leaders, while his challenger, Sheriff's Captain Craig Therkildsen, has the support of mostly everyone within the El Dorado County Sheriff's Department.

In a race of insider versus outsider, D'Agostini came out first in the June primary.

"I don't want to rest on my laurels because we're ahead, but I want to win by a lot," said D'Agostini during a speech to the Hells Angels biker gang at PJ Saloon in Placerville.

He also said, "I have it, and I'll say it. I know there is ladies in the room, but I have the balls to step up and tell it like it is."

Those statements are mild in comparison to what came next. D'Agostini told the group how he and his undersheriff would handle a deputy who violated someone's civil rights.

"I guarantee within 72 hours of me taking office on January 11, 2011, someone is going to step up and test the waters. How I handle that is going to set the tone for the next eight, 12, 16 years of my administration. Me and this person don't have any problem with cutting somebody's head off, holding it up on a pole and parading it around and say this will not be tolerated."

D'Agostini doesn't regret saying it; in fact, he wonders if the current sheriff is playing politics by releasing the recording.

CBS13 reporter David Begnaud asked the sheriff why these recording were released so easily.

"Sheriff let me ask you, 99 percent of the time when I request an audio recording that's part of an investigation the answer is no. Why yes for this request, and do you think you violated the law?" Begnaud asked.

"The decision wasn't made in a vacuum. I consulted with both county counsel and the district attorney's office. I lost sleep over this. I made the right decision for the right reason, but it wasn't a decision I was entirely [comfortable](#) making knowing it could affect the race," said El Dorado County Sheriff Fred Koller.

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The sheriff says the tape was done for intelligent reasons. He said that since there is no ongoing criminal investigation, the tape was fair game because CBS13 filed a public records request and public has a right to know.

Sheriff Koller says that he didnt know his undercover agents would be at PJ Saloon the night of the recordings. As for the recordings, Sheriff Koller says that he was cooperating with CBS13's public records request, adding that the public has a right to know.

<http://cbs13.com/local/el.dorado.county.2.1929041.html>