

M. Lane Open Forum BOS 12/10/14



Compass2Truth

Citizens Serving God in Truth and Liberty

P.O. Box 598
Coloma, CA 95613
(530) 642-1670
Melody.lane@reagan.com

December 10, 2014

District Attorney Vern Pierson
515 Main Street
Placerville, CA 95667

RE: REQUEST FOR EDSO INVESTIGATION
Sheriff John D'Agostini - Violation of the Public Trust & Constitutional Oath of Office

Dear Mr. Pierson,

Thank you for meeting with us on July 10th to discuss an investigation into the above captioned matter. Enclosed you will find materials necessary to substantiate the concerns about Sheriff D'Agostini's Violation of the Public Trust. The format basically follows the agenda I provided for that meeting.

Since we last spoke more incidents have contributed to the bulk of this request for investigation. On November 11, 2014 a package containing eight (8) EDSO personnel complaints was delivered to Sheriff D'Agostini and is contained within for your reference. Together these formal complaints provide a more comprehensive picture of the EDSO dysfunction. It is disturbing that our elected officials have been unresponsive to these community concerns.

Thank you again for your patience and willingness to tackle this difficult subject. Audio CDs are available upon request for all transcripts contained herein. Should you have any questions whatsoever, please do not hesitate to contact me, (530) 642-1670.

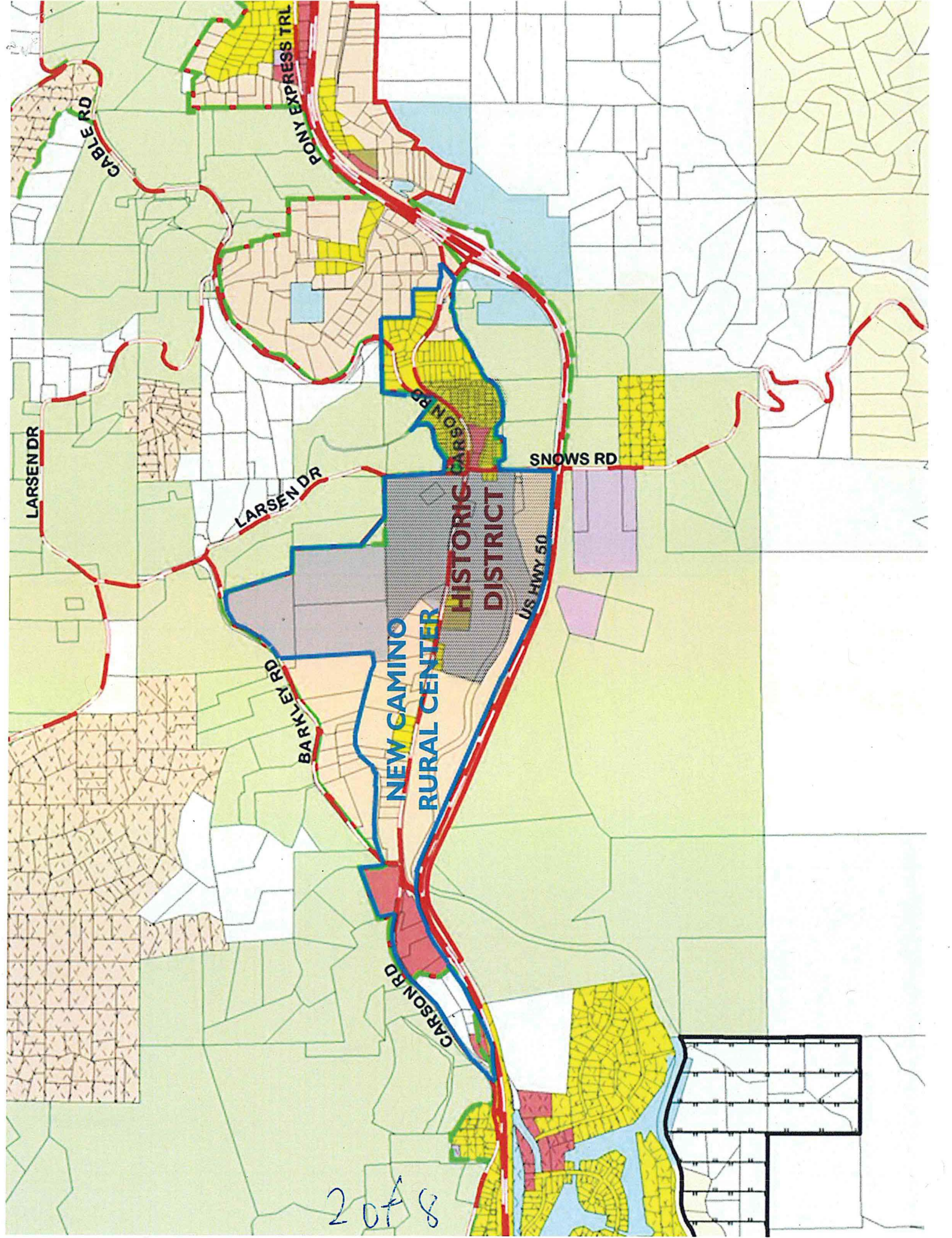
Sincerely,

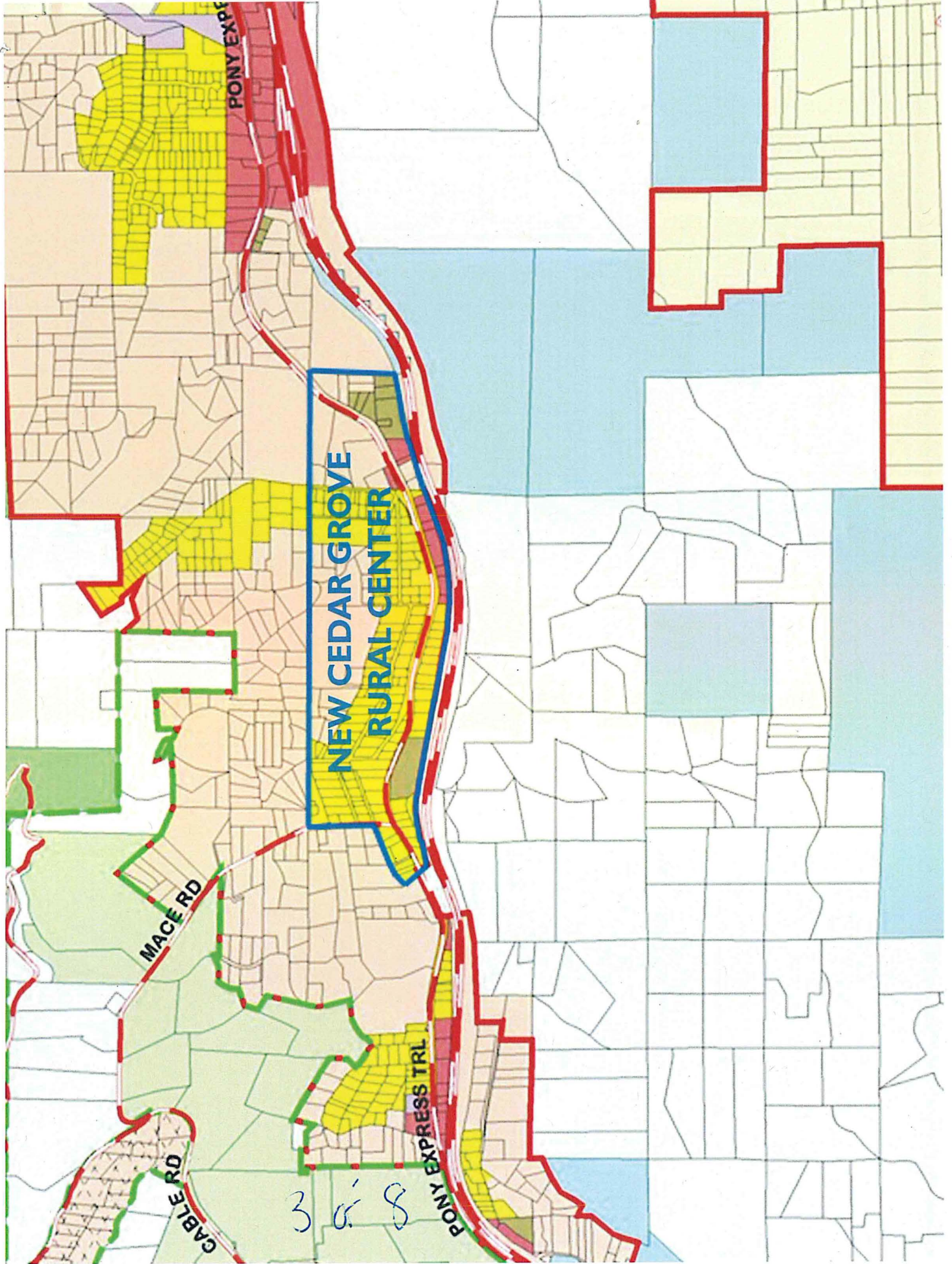
Melody Lane
Founder - **Compass2Truth**

Enclosure

CC: DA Chief Investigator Bob Cosley
EDC Grand Jury
CA Attorney General Kamala Harris
Sheriff Richard Mack, Oathkeepers

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**NEW CEDAR GROVE
RURAL CENTER**

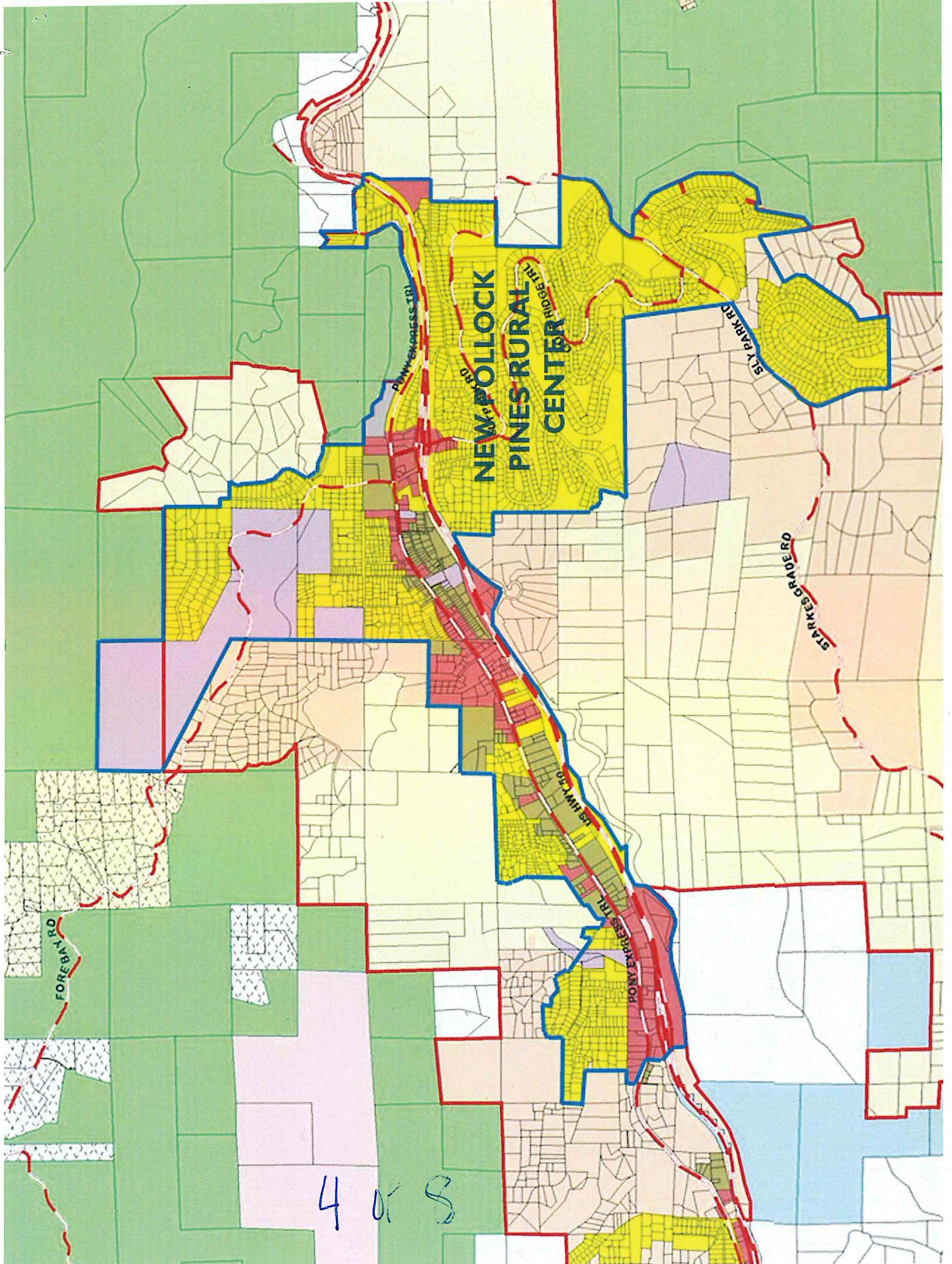
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PONY EXP

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El Dorado County

display
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version

Legislative File ID 09-0174

print

Type: **Agenda Item** Status: **Adopted**

Enactment Date: Enactment No.:

Title: **Supervisors Sweeney and Nutting recommending an amendment be made to the 2004 General Plan as follows: (1) Remove Camino/Pollock Pines from the Community Region list (General Plan Policy 2.1.1.1, page 12); (2) Add the communities of Camino, Cedar Grove and Pollock Pines to the Rural Centers list (General Plan Policy 2.1.2.1, page 13)**

Controlling Body: **Board Of Supervisors**

Introduced: **2/2/2009** Version: **1**

Final Action: **2/10/2009** Contact: **Supervisor Sweeney X5652 or Supervisor Nutting X5651**

Name: **Supervisor Sweeney - General Plan Amendments**

Requester: **Board Of Supervisors**

Sponsors:

Attachments: **Legislative File Text**

Next Meeting:

Legislative History

Date	Acting Body	Action Taken	Motion
2/10/2009	Board Of Supervisors	A motion was made by Supervisor Sweeney, seconded by Supervisor Nutting, as follows: It is the intent of the Board to potentially amend the General Plan to remove the Camino/Pollock Pines area from the Community Region list and add Camino, Cedar Grove and Pollock Pines to the Rural Centers. Refer this matter to the Planning Commission for their review and recommendation regarding a General Plan amendment to remove the Camino/Pollock Pines area from the list of Community Regionst and add Camino, Cedar Grove and Pollock Pines to the Rural Centers.	Pass (4:0)

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ATTACHMENT 4

Supervisors Sweeney and Nutting recommending an amendment be made to the 2004 General Plan as follows:

- (1) Remove Camino/Pollock Pines from the Community Region list (General Plan Policy 2.1.1.1, page 12);
- (2) Add the communities of Camino, Cedar Grove and Pollock Pines to the Rural Centers list (General Plan Policy 2.1.2.1, page 13)

Background:

When the Board of Supervisors adopted the 2004 General Plan, the area that includes Pollock Pines and Camino and all areas in between were placed in a Community region. If we look at the land uses surrounding these communities we see a significant amount of agricultural and open space land use.

When we look at the intensity of development allowed (or called for) in a Community Region the difference between that designation and that of rural Centers becomes obvious: A Community Region is an area set to absorb great amounts of high density residential and retail and a Rural Center is only set to create a service area for the adjacent land uses. It should be expected that a Community Region would be served by community sewer and water systems and be a well planned road system. A Rural Center could be served by combinations of individual water and sewer systems or community systems and the roads would only serve the local community as opposed to being part of a major thoroughfare system.

Other than for the Highway 50 connection these communities precisely fit the Rural Center description. They MUST never be brought to the land use intensities of the Community Regions. Hence, they deserve the Rural Center designations. Since this amendment would provide a significant reduction in impacts, we see no cause for a lengthy adoption process.

Motion of the Planning Commission: 2-29-2009

Motion: Commissioner MacCready moved, seconded by Commissioner Mathews, and unanimously carried (4-0), to recommend the Board of Supervisors initiate changes in the Camino, Pollock Pines, and Cedar Grove area to consider revising the designation of a Community Region to Rural Centers or a combination of Rural Centers and Rural Regions and to direct staff as part of the initiation to work with the public to prepare maps early in the process.

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41. 09-0519 Discussion to consider Planning Commission's direction to staff to prepare a Resolution of Intention recommending the Board initiate changes and to consider revising the designation of the Camino-Pollock Pines area from a Community Region to Rural Center or a combination of Rural Centers and Rural Regions; and staff recommending the Board take one of the following actions:
- (1) Find that no further action is needed; or
 - (2) Adopt the Resolution of Intention and direct staff to prepare and process the amendment based on one of the Alternatives.

Resolution 110-2009

A motion was made by Supervisor Sweeney, seconded by Supervisor Santiago, to adopt Resolution 110-2009, resolution of intention with the purpose of determining if there should be two or three rural centers and remove the common community region boundaries without changing the land use.

Yes: 5 - Knight, Sweeney, Nutting, Briggs and Santiago

CAO REPORTS

ITEMS TO/FROM SUPERVISORS

ADJOURNMENT

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EL DORADO COUNTY
PLANNING DEPARTMENT

2850 Fairlane Court
Placerville, CA 95667

<http://www.co.el-dorado.ca.us/planning>

Phone: (530) 621-5355
Fax: (530) 642-0508

RESOLUTION OF INTENTION No. 2009-

WHEREAS, the County of El Dorado is mandated by the State of California to maintain an adequate and proper General Plan; and

WHEREAS, because of that mandate, El Dorado County's General Plan and the various elements thereof must be continually updated with current data, recommendations, and policies; and

WHEREAS, Section 65302(c) et seq. of the California Government Code contains specific provisions that must be contained within the land use element of the general plan;

BE IT HEREBY RESOLVED that the El Dorado County Board of Supervisors will set a public hearing to consider amending the Land Use Element, other related Elements as necessary, and the Land Use Map of the General Plan to modify policies and the Land Use Map relating to Community Regions and Rural Centers as they pertain to the Camino-Pollock Pines area.

BE IT FURTHER RESOLVED, the Board of Supervisors hereby authorizes the Development Services Department to proceed with the preparation of the above said hearing.

PASSED AND ADOPTED by the El Dorado County Board of Supervisors, at a regular meeting of said Board held May 19, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

Suzanne Allen de Sanchez
Clerk to the Board of Supervisors

Ron Briggs, Chair

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So here we are at the last meeting of this board. Time to look back and reflect on the record.

Let's start with something positive. The only thing I could think of is that, after some heated discussion, you provided aid-to-fire for another year. Yet still you won't admit that public safety is your responsibility. That is the only positive action I could think of.

On the other hand, you have refused to obey state law and ignored hundreds of California Public record Act requests, aka CPRA's, in an attempt to escape accountability.

Despite repeated testimony and evidence presented to this board, you have refused to investigate dishonest county contracting practices.

Despite up to 48 felony counts of contract fraud being revealed to his board, there remain multiple co-conspirators still working for the county, and no one has been charged with a crime. In fact, some have been rewarded with generous separation packages.

This board has committed Brown Act violations in connection with these felonies and continues to thumb its nose at the law.

This board has run roughshod over the constitutional rights of the citizens in our county, spit on their oath of office and ignored the county ethics code.

Finally, this board has taken conflict of interest to new lows and failed to take any proper action.

I have written proof from multiple sources of all of these charges and submit them as evidence today.

I can only hope that our new board members will have a better sense of honor, courage and commitment than the old, who have none.

Attachments: Total of 5

1. Public Comments Speech (2 pages)
2. Felony Contract Fraud (2 pages)
3. Crush Constitutional Rights (3 pages)
4. Brown Act Violations (4 pages)
5. Conflicts of Interest, Ethics, BOS (6 pages)

Mullins 12-16-2014

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FELONY CONTRACT FRAUD

THE BALANCING ACT by Larry weitzman

Arrogance, incompetence and abuse of power.

This 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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**CRUSH
CONSTITUTIONAL
RIGHTS**

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.) 1 or 3

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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

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19

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

3063

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Mark

From: [REDACTED]

BROWN ACT VIOLATION

Sent: [REDACTED]

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

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

Subject: Brown Act Violations & 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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**BROWN ACT
VIOLATION**

County of El Dorado

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

MEETING AGENDA

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, November 4, 2014

8:00 AM

Board of Supervisors Meeting Room

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.

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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

← NO Public COMMENT ON Agenda - NO public COMMENT Allowed in the rules-

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 1st and 14th amendment of the Constitution.

This is why the CAO WAS FIRED AND should be

THE BALANCING ACT by Larry weitzman

PROSECUTED

Arrogance, incompetence and abuse of power

This 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

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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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CONFLICTS OF INTEREST, ETHICS, BOS

History of Conflict of Interest, Breach of Ethics, Board of Supervisors and Tom Heflin as of 11-17-14

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.

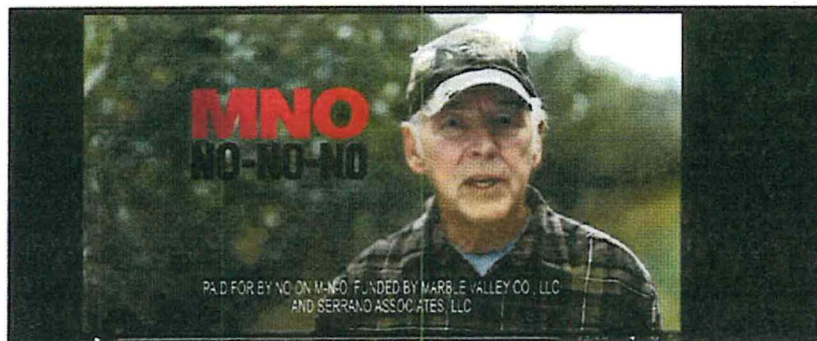
At the October 28 Board meeting Supervisor Veerkamp decided to take the item off of the Board agenda during the meeting, stating that they were working something out rather than following through and removing Mr. Heflin.

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. Mitrisin, 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. Ham (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.

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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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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 A9

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.

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Mark

From: Mark [REDACTED]
Sent: Thursday, October 30, 2014 1:09 PM
To: Brian Veerkamp (bostthree@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.

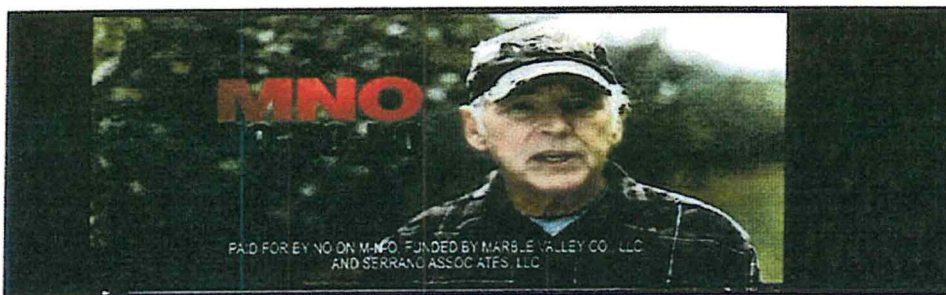
This is your chance to begin to restore some small semblance of public trust in the office of the Board. Mr Heflin has committed an obvious breach of ethics and is owned by those interests his board oversees. It doesn't get any more transparent than this.

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

Email: [REDACTED]
Phone: [REDACTED]

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

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