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MANAGEMENT & BUDGET TEAM
COUNTY OF HUMBOLDT**

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INTEROFFICE MEMORANDUM

TO: BOARD OF SUPERVISORS
FROM: PHILLIP SMITH-HANES, COUNTY ADMINISTRATIVE OFFICER *PSH*
SUBJECT: RESPONSE TO 2009-10 GRAND JURY REPORT 2010-AF-01
DATE: 5/3/2010

Grand Jury Report 2010-AF-01 contains inaccurate and incomplete information comparing Humboldt County Board member salaries to those in other jurisdictions. For example, the report refers to the "slightly larger" Shasta County when in fact Shasta's population is 184,247, or 38 percent larger than Humboldt. The county whose population is actually slightly larger at 138,917 is Napa County, compared to Humboldt County's population of 133,400. Napa County Board members are considered part-time, make \$7,016 per month and receive an auto allowance of \$440 per month.

The Grand Jury requested that the Board respond to Findings 1-4 and Recommendations 1-3 of the report. I am proposing that your Board respond to this Grand Jury report as detailed below.

Finding 1:

The current methodology for setting the salary level of the Humboldt County Supervisors has resulted in a salary structure significantly above the two "historic" methodologies/comparisons (described in A and B above¹) which were previously used to determine salary levels. The two abandoned methodologies would have resulted in salary levels 11-24% below today's salary levels.

Recommendation 1:

That the Board of Supervisors reduce its salaries, commencing with Fiscal Year 2011.

¹ "A" in the Grand Jury report refers to a "historic five-county methodology/comparison" of Board member monthly salaries amongst Humboldt and Butte, Mendocino, Napa, Shasta, and Yolo counties. The Grand Jury report further states that the average salary using this historic-five county comparison is \$5,327 per month while Humboldt's monthly salary is \$6,600 per month, which "is currently 24% above what would have been reflected by the compared counties." "B" in the Grand Jury report refers to a "historic Forty-Percent-of-a-Superior's-Court-Judge's-salary methodology/comparison" in which the 2009 Judge salary is \$14,899 per month. Forty-percent is \$5,959 and Humboldt's Board members make \$6,600 per month, which "is currently 11% above what would have been the monthly amount had the methodology not been changed."

Proposed Board of Supervisors Responses to F.1. and R.1:

The Board of Supervisors disagrees with this finding on the basis that it is inaccurate and irrelevant. The Board of Supervisors will not implement this recommendation because it is not warranted and because it would be illegal to do so.

The Grand Jury finds the current methodology for setting Board member salaries has resulted in higher salaries than "abandoned historical methodologies." Prior to the passage of Proposition 12 in 1970, the State Legislature set the salary of the Board of Supervisors. The ballot language of Proposition 12 provided that county governing bodies, rather than the Legislature, set compensation of their members by ordinance.

The first historic reference cited in the Grand Jury report is "comparing salaries with those of a group of five counties of similar size and with similar governance structure." The five counties mentioned in the report are Butte, Mendocino, Napa, Shasta and Yolo. The Grand Jury did not provide a citation for the aforementioned historic reference. Upon careful review of County ordinances, which are necessary for the Board to receive a pay increase, no ordinance was found referencing a five-county comparison. **Staff has found no documented historical use of the five comparison counties referenced by the Grand Jury to determine Board member salaries.**

Even if one were to accept that comparison with other counties is a valid methodology for setting Board salaries, there are significant differences between the five counties cited by the Grand Jury and Humboldt County. Butte County's January 1, 2010, population, as determined by the State Department of Finance, is 221,768. This is two-thirds larger than Humboldt County. There are 17 other California counties that are more similar in population size to Humboldt County than is Butte County. Conversely, Napa County, while similar in size to Humboldt County, had a median income for 2006 that was 36 percent higher than Humboldt's according to the Franchise Tax Board. With respect to governance structure, for FY 2009-10 Napa County has 830 fewer allocated positions than Humboldt County, while Humboldt County in turn has budgeted expenditures that are \$111.5 million lower than those of Butte County.

Before delving into the second historic reference, it is worth noting that the Grand Jury report omits important facts and fails to detail actual Board actions. On October 21, 2008, the Humboldt County Board of Supervisors approved Ordinance No. 2403 which provided the Board members with three percent salary increases effective June 29, 2008; June 28, 2009; and June 27, 2010. The Grand Jury report fails to mention that individual Board members have waived these raises. Three Board members (Smith, Clendenen and Lovclace) signed letters declining all three annual salary increases. In addition, Supervisor Neely waived her 20-year longevity. Given these facts, the average Board member salary for Humboldt County is currently \$6,360 per month, rather than the \$6,600 per month cited by the Grand Jury.

The second historic reference cited was the connection between Board salaries and the salary of the Superior Court Judges. On July 17, 1979, Ordinance No. 1342 was passed which provided that "each member of the Board of Supervisors of Humboldt County shall receive, as compensation for services rendered, an amount equal to forty-one percent (41%) of the total annual salary paid to the Presiding Judge of the Superior Court." On June 23, 1983, Section 213-1 Compensation of the Board of Supervisors was added to the Humboldt County Code to include the correlation between the Board members and the Superior Court Judge salaries. The Ordinance and County Code do not reference 40 percent as mentioned in the Grand Jury's report. The Grand Jury's report states the Board member salary should have been \$5,959 if the historic methodology had not been abandoned. **Based on the correct percentage, as shown in the chart at the top of the following page, Board members currently receive only four percent above the historic methodology rather than 11 percent (($\$6,360 - \$6,109$) = $\$251 / \$6,109$).**

Judicial Salary Increases						
Date	Percentage Increase	Total Judge's Annual Salary	Monthly Salary for Judge	Board Member Salary at 4%	Monthly Salary	
7/1/2007	4.16%	\$ 178,789	\$ 14,899	\$ 73,303.36	\$ 6,109	
1/1/2007	8.50%	\$ 171,648	\$ 14,304	\$ 70,375.73	\$ 5,865	
7/1/2006	4.98%	\$ 158,201	\$ 13,183	\$ 64,862.42	\$ 5,405	
2/1/2006	1.03%	\$ 150,696	\$ 12,558	\$ 61,785.51	\$ 5,149	
1/1/2005	3.70%	\$ 149,160	\$ 12,430	\$ 61,155.60	\$ 5,096	
7/1/2003	2.90%	\$ 143,838	\$ 11,987	\$ 58,973.58	\$ 4,914	
7/1/2002	2.5% beyond \$513	\$ 139,476	\$ 11,623	\$ 57,185.16	\$ 4,765	
9/1/2001	2.5% beyond \$513	\$ 136,224	\$ 11,352	\$ 55,851.84	\$ 4,654	
1/1/2001	8.50%	\$ 133,052	\$ 11,088	\$ 54,551.16	\$ 4,546	
9/1/2000	4.00%	\$ 122,628	\$ 10,219	\$ 50,277.57	\$ 4,190	
7/1/1999	4.00%	\$ 117,912	\$ 9,826	\$ 48,343.82	\$ 4,029	
6/30/1999	2.50%	\$ 113,377	\$ 9,448	\$ 46,484.44	\$ 3,874	
7/1/1998	3.00%	\$ 110,611	\$ 9,218	\$ 45,350.67	\$ 3,779	
1/1/1995	3.00%	\$ 107,390	\$ 8,949	\$ 44,029.78	\$ 3,669	
1/1/1994	5.00%	\$ 104,262	\$ 8,688	\$ 42,747.36	\$ 3,562	
1/1/1991	5.25%	\$ 99,297	\$ 8,275	\$ 40,711.77	\$ 3,393	

Note: The 9/1/2001 and 7/1/2002 judicial salaries did not contribute to Social Security. Therefore, an annual salary increase of 2.5% was provided after \$513 was subtracted from the monthly salary.

The Lockyer-Isenberg Trial Court Funding Act of 1997 transferred from the County to the State the fiscal responsibility for court operations. In response to this transfer of responsibility, on July 7, 1999, the Board adopted Ordinance No. 2194 amending Section 213-1 to read "the Board of Supervisors shall receive adjustments in compensation as they deem appropriate. Such compensation shall be reviewed and acted upon at the time employees in County Representation Unit 4 receive adjustments in compensation." Board salaries thereby remain connected to the salaries of other County employees rather than State employees.

The Grand Jury recommends that the Board members reduce their salaries for FY 2010-11. Were the Board members to comply with this recommendation at the present time, the Board would be in violation of Government Code section 1235, which states, "The salary of any elected public office shall not be reduced during an election year after any candidate for that particular office has filed the requisite forms declaring his or her candidacy for that particular office." As the Board and public are aware, there are currently two races for the office of County Supervisor which have declared candidates. **Board members do not condone breaking the law and will therefore not be implementing this recommendation.**

Finding 2:

The current methodology for setting the salary levels of the Humboldt County Supervisors has resulted in today's salary levels being 78% higher than the average salary of the surrounding and regional counties with similar economies and governance structure.

Recommendation 2:

That any additional monetary salary rewards be based on additional workloads or duties, not longevity in office.

Proposed Board of Supervisors Responses to F.2. and R.2:

The Board of Supervisors disagrees with this finding on the basis that it is inaccurate and irrelevant. The Board of Supervisors will not implement this recommendation because it is not warranted.

The Grand Jury finds the current methodology for setting Board member salaries has resulted in salaries that are 78% higher than the average salary of neighboring counties with similar governance structures.² First, it should be noted that two of the salaries cited by the Grand Jury for these counties are in error. Del Norte County's Board member salary is listed in the Grand Jury report as \$3,340. Del Norte's monthly salary is actually \$3,786. Shasta County's Board member salary is listed in the report as \$4,500. Shasta's monthly salary is actually \$4,459. Therefore, the average neighboring county salary is \$3,788 per month.

County	Population	Monthly Salary
Del Norte	29,673	\$3,786
Mendocino	90,289	\$5,667
Shasta	184,247	\$4,459
Siskiyou	46,010	\$2,942
Trinity	13,898	\$2,084
Average		\$3,788

Of more significance than these minor errors, however, is the Grand Jury's lack of justification for its assertions. The Grand Jury failed to define either a "similar economic base" or "similar governance issues."

With respect to economics, there appear to be significant differences amongst these counties. According to statistics released by the California Economic Development Department's Labor Market Information Division for February 2010, total employment ranged from 2,540 persons in Trinity County to 57,800 in Shasta County. Half of employed persons in Del Norte and Trinity counties were working in government, compared to less than 25 percent in Mendocino and Shasta counties. And the unemployment rate ranged from a low of 12.3 percent in Humboldt County to a high of 22.3 percent in Trinity County, with the three coastal counties averaging 12.9 percent and the three inland counties averaging 19.8 percent.

² "C" of the Grand Jury report states "another method compared nearby surrounding and regional counties, since these counties appeared to share similar economic bases and similar governance issues." These counties included: Del Norte \$3,340 per month; Trinity \$2,084 per month; Mendocino \$5,666; Shasta \$4,500 per month; and Siskiyou \$2,943 per month. The average of these counties is \$3,706 per month. Humboldt's salary is \$6,600 per month which "is currently 78% above the average of the surrounding and neighboring counties in the region."

Farm employment amongst these counties ranged from less than one percent in Trinity and Shasta counties to more than five percent in Mendocino County, while manufacturing employed just over one percent of Del Norte County workers but nearly eight percent of those employed in Mendocino and Trinity counties. These differing patterns were also reflected in housing costs. According to the Humboldt Association of Realtors, the February 2010 median home price in Humboldt County was \$242,500. This is 22 percent higher than the median price in Shasta County for the same period, as cited in the *Redding Record-Searchlight*.

The Grand Jury also neglected to detail what "issues" it believed were similar in county governance, though of course all counties in California face many of the same challenges in providing a mix of State-mandated and locally-needed services. One key factor in how these services are delivered is the workload expected of County Supervisors. For example, Del Norte and Siskiyou counties define Board service as a part-time obligation. In Humboldt County, by contrast, being a Board member means working full-time on behalf of one's constituents. A recent staff analysis of Board member calendars documented an average work week of 60 hours.

Humboldt County Supervisors also receive significantly less staff assistance than Board members in counties with similar populations, as detailed in the table below. Budget constraints have curbed Humboldt's ability to provide staffing for the Clerk of the Board and County Administrative Office. Consequently, the Board members themselves assume responsibilities and assignments that would in other counties be delegated to a staff member.

County	Population	# of BOS Staff	# of CAO/CEO Staff
Imperial	183,029	1	13
El Dorado	182,019	9	10
Kings	156,289	2	4.5
Madera	153,655	10	9
Napa	138,917	2.5	21
Humboldt	133,400	3	4
Sutter	99,154	2	7
Nevada	98,680	4	7
Mendocino	90,289	4	6
Yuba	73,380	2	6
Lake	64,053	0	13
Average (w/out Humboldt)		3.75	9.5

Even if one were to accept that the Grand Jury has chosen five appropriate counties for comparison, the math is questionable. Board members in the referenced counties receive an average of 60 percent of Humboldt County's Board salary ($\$3,788/\$6,360 = 0.59559$). This, again, is for work that in some cases is considered part time and in other cases has additional staff assistance provided. Simply stating that a current salary is higher than some comparative statistic, even if true, does not mean a salary is not justified. The Grand Jury's report provides no evidence that the Board members do not earn their salaries.

The Grand Jury next recommends that additional monetary rewards be based on additional workload rather than longevity. The Grand Jury provides no discussion as to why Board member salaries should not be linked to salaries of other County employees. Longevity pay is provided to other Humboldt County employees, including other elected officials. The Grand Jury only cites inaccurate averages as "proof" that the current salary methodology is flawed and has therefore produced higher than average salaries. In fact, two of the Grand Jury's comparison counties, Del Norte and Trinity, provide longevity pay to their Board members. Likewise, the fact that some counties provide extra pay for the Chair does not mean Humboldt County should follow suit. Historically, the chairmanship in Humboldt County has been rotated annually in order to distribute the workload over the course of a Board member's tenure. The Grand Jury provides no evidence that this system does not benefit the public.

Finding 3:

The current methodology for setting the salary level of the Humboldt County Supervisors has resulted in today's salary levels being 29% higher than counties with similar population bracket.

Recommendation 3:

That a third party, such as the Grand Jury (impartially selected by a Judge and empowered by State law under Section 927 of the Penal Code), provide guidance as to appropriate salary levels of the BOS and to the methodology for adjusting these levels.

Proposed Board of Supervisors Responses to F.3. and R.3:

The Board of Supervisors disagrees with this finding on the basis that it is inaccurate and irrelevant. The Board of Supervisors will not implement this recommendation because it is not warranted and not reasonable.

The Grand Jury finds the current salary methodology has resulted in salaries 29% higher than counties within a similar population bracket. **Again, the Grand Jury report cites inaccurate statistics.** Marin County's population is 260,651, not 146,000.

This error results in an inaccurate comparison. As shown in the table at the top of the next page, counties with similar populations receive an average salary that is 77 percent of Humboldt County Board members' salary ($\$4,905/\$6,360 = 0.77$). Adding in the much larger Marin, Shasta and Yolo counties, as the Grand Jury's report does, boosts the average to \$5,121, or 80 percent of Humboldt County. Once again, however, these data prove only that Board members in other counties are paid at different rates than Humboldt County's Board members, not that the salaries paid to Humboldt County Board members are inappropriate.

County	Population	Monthly Board Salary
Imperial	183,029	\$4,362
El Dorado	182,019	\$6,406
Kings	156,289	\$4,661
Madera	153,655	\$5,960
Napa	138,917	\$7,016
Humboldt	133,400	\$4,360
Sutter	99,154	\$2,873
Nevada	98,680	\$3,287
Mendocino	90,289	\$5,667
Yuba	73,380	\$4,015
Lake	64,053	\$4,807
Average (w/out Humboldt)		\$4,905

The Grand Jury goes on to recommend that a third party, such as themselves, provide guidance as to appropriate Board member salaries. Given the errors in the Grand Jury's report and the lack of any evidence that current Board members salaries are not in fact appropriate, there is no basis for making such a change. In fact, the setting of Board member salaries is a matter of policy, and is specifically recognized as such by the California Constitution. **Article XI, Section 1 (b) of the State Constitution provides that "each governing body shall prescribe by ordinance the compensation of its members," and gives the authority to override that policy decision not to a third party but directly to the voters.** The Penal Code section cited by the Grand Jury states only that grand juries are empowered to "investigate" and "report upon" salaries of county officials; it makes no reference to providing "guidance" or "methodology" for setting salaries, as these functions are clearly delegated to the Board by the Constitution.

Finding 4:

The use of a longevity factor results in unequal pay for equal work. Extra duties and/or workloads, such as the Board Chairmanship, are reasons more properly rewarded with extra pay.

Proposed Board of Supervisors Responses to F.4:

The Board of Supervisors disagrees with this finding on the basis that it is inaccurate.

The Grand Jury finds longevity results in unequal pay for equal work. **This appears to be based on a misunderstanding of the purpose of longevity pay.** Longevity pay rewards individuals on the basis of knowledge gained from years of experience, not on the basis of additional duties. The County, like most organizations both public and private, relies heavily on its long-term staff members to offer counsel borne of experience and guide more junior staffers through events such as an economic downturn. A "revolving door" in the workforce generates high costs for recruitment and training.

Although it is the voters who ultimately decide retention of expertise among elected officials, including Board members, one has only to look at the current dysfunction in Sacramento to see that lack of institutional history and experience among elected officials can have negative consequences similar to constant turnover amongst non-elected staff. Thus, the Board of Supervisors, acting in its constitutional role as the policy-setting body for employee and elected official compensation in Humboldt County, has made a rational policy choice to provide long-tenured employees with additional pay that recognizes the value of their experience. Longevity pay applies not only to the Board members, but to all County employees including other elected officials. And, as previously noted, the neighboring counties of Del Norte and Trinity have made this same policy choice for their Board members.

The Grand Jury has provided no evidence in support of its assertion that duties such as chairmanship are a more rational basis for differential pay among Board members. While some counties such as Kings, Madera and Lake provide differential pay for chairmanship, the majority of the counties cited in the Grand Jury's report do not.

In summary, the Board wholly disagrees with each of the findings contained in Grand Jury Report 2010-AF-01 and will not be implementing any of the recommendations. Use of accurate and relevant information exposes serious flaws in the Grand Jury's conclusions and fails to substantiate a need for a change in current County policy.