

Report Title: Special Districts in Marin County**Report Date: June 14, 2002****Response by: Jared Huffman****Title: President, Board of Directors****FINDINGS**

- I (we) agree with the findings numbered: 1, 2, 3, 7, 8(?)
- I (we) disagree wholly or partially with the findings numbered: 6, 8(?)

(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefor.)

RECOMMENDATIONS

- Recommendations numbered _____ have been implemented.
(Attach a summary describing the implemented actions.)
- Recommendations numbered 1, 2, 4 have not yet been implemented, but will be implemented in the future.
(Attach a timeframe for the implementation.)
- Recommendations numbered _____ require further analysis.
(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)
- Recommendations numbered 3, 6, 7 will not be implemented because they are not warranted or are not reasonable.
(Attach an explanation.)

Date: _____ Signed: _____

Number of pages attached _____

MMWD Response to Grand Jury Report

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FINDINGS with which we disagree wholly or partially:

- 1 – 3 and 6 – 8 It is difficult to comment on the findings relating to the research done by the Grand Jury on what the “average”, “most”, “several” or “majority” of the districts do. These comments are not necessarily a disagreement with the finding, merely a clarification our MMWD facts:
1. MMWD currently pays directors \$100 per meeting with a cap of eight meetings per month and only one meeting per day. This is actually 20% less than the directors were paid in 1994. When the new board was sworn in in January of 1995, one of their first actions was to cut their own compensation from \$125 per meeting to \$100 per meeting, where it has remained ever since. To put this compensation in perspective, the length of board meetings ranges from 1½ hours (short meetings) to 4 hours or more. Similarly, committee meetings range from 1 hour (a typical Operations Committee meeting) to 3 hours (a typical Lagunitas Creek Technical Advisory Committee meeting). It is not uncommon for directors to devote entire days to district business – e.g., the annual board retreat, special workshops, or when a daytime committee meeting occurs on the same day as an evening board meeting. In all of these instances, directors receive no more than \$100 per day. Service on the MMWD board requires familiarity with a broad range of technical and policy issues, and preparation for meetings often requires a substantial amount of homework. If you assume an average of one hour for reading and preparation for each meeting (sometimes it is more, but rarely is it less), you can see that MMWD directors receive very modest compensation for their time relating to board and committee meetings. Moreover, directors receive nothing for time spent on district business outside of authorized board or committee meetings. This often amounts to a considerable contribution of uncompensated time (a good example of such uncompensated time would be the Board President’s time in reviewing and responding to the Grand Jury’s report).
 2. MMWD holds two regular board meetings per month and has occasional special meetings. Meetings are occasionally canceled if there is insufficient business to justify a meeting. This typically happens 1-2 times per year for board meetings, and 1 or 2 times per year for committee meetings.
 3. Our board members receive medical and dental benefits if they so choose.
 6. Again, not knowing what “most districts” do, we make a concerted effort to make our budget “user friendly.” Financial statements are not that easily understood and need to be studied in the context of the purpose of the district. Whether the terminology between districts is similar does not seem as important. There may be reasons the terminology is different. Special District audited financial reports that conform to Governmental Accounting Standards Board (GASB) statements and pronouncements will use consistent terminology and format in, and for, their reports. GASB is the governing body for governmental financial accounting. As in most professions, there is terminology that may be unfamiliar to those outside the profession. However, the terminology does have a consistent meaning to those within the profession. Formats used by enterprise special districts are similar to those used in the private sector. The format should be that which is required by GASB statements and pronouncements. The Government Finance Officers Association (GFOA) also trains accountants in this reporting format as well as in the use of proper terminology. GASB can be found on the internet at <http://www.gasb.org>. GFOA’s website is located at www.gfoa.org.
 7. Again, this is a statement of opinion that the public is unaware of the amount of reserves in special

districts. This is likely true. We have very little public or press attendance at our budget workshops and hearings and rarely an inquiry about the budget. To many people (including the local media), if it isn't a crisis, it isn't news. This problem is not completely the district's responsibility, although we strive to make our financial information easily accessible and understandable. It is not for the lack of trying or notification of the opportunity to learn about the budget at the publicly-held budget hearings.

8. Not sure this finding is directed at us. The definition of a "reasonable" amount of reserves depends on the size of the organization and the purpose for the reserves. In order to maintain an acceptable bond rating, for example, an agency must maintain at least 90 days operating reserves. Some reserves are earmarked for liability insurance against claims. We are also anticipating significant capital projects over the next ten years that cannot be funded out of one year's revenue stream, so we are accumulating funds for those planned improvements. Without knowing what the reserves are for, it is impossible for the Grand Jury or anyone else to determine whether they are "unreasonable" or "reasonable". The reserves maintained by special districts are reported annually in their audited comprehensive annual financial report (CAFR). Many districts also report a projection of reserves in their budget document. Both the CAFR and the budget are public documents accepted or adopted at public meetings. The documents themselves are typically available in the reference section of the various county library branches.

As calculated by the Grand Jury the reserves do appear to be large. However, several errors were made when calculating the reserves.

First "retained earnings" as defined by the Grand Jury are "...accumulated net income..." as reported on page 6 of the Grand Jury report. Actually, retained earnings is a part of "equity" which is the difference between assets and liabilities. It is a basic tenet of accounting that assets equals liabilities plus equity. Equity in governmental proprietary funds is further divided between "contributed capital" and "retained earnings". Contributed capital, in its simplest form, is assets that have been contributed to the agency. This could be the value of improvements made by developers and then given to the agency or money provided for improvements through grants. Retained earnings then becomes all other assets; which includes an accumulation of net income, but is not limited to that accumulation. Retained earnings for MMWD are almost \$162 million. Most of this is made up of fixed assets and not income.

Second, again on page 6 of the Grand Jury report it states that in order to calculate reserves the "...Grand Jury included cash and cash equivalents as shown in the assets sections of the balance sheets..." including "...both restricted and unrestricted". This was done primarily because the Grand Jury felt that restricted cash and cash equivalents were something that the boards of directors could arbitrarily set. This is only correct to a limited extent and to take it as absolute is grossly in error. In the case of MMWD, the Grand Jury reports "reserves of \$54,102,000. This number is made up of \$29,389,665 of unrestricted cash and investments and \$24,712,357 of restricted cash and investments. To lump these two amounts together is incorrect. On the June 30, 2001 Balance Sheet, under the heading "Restricted and Designated Assets," \$2,464,320 is clearly identified as "Deposits and Advances." In the case of deposits, this is cash collected, which will be returned to the person who gave it to the district, normally within one year. It is given to the district by new customers who cannot provide us with an acceptable financial history of past payments for utility service. Advances are typically prepayments of amounts due to the district. This cash is not the district's until such time as the revenues are earned. Deposits far exceed advances in this category.

The remaining \$22,248,037 is listed in detail in Note 3 of the CAFR. It is broken down into two parts: Restricted and Designated. Restricted cash and investments include \$7,393,420 of cash held by trustees for outstanding bonds. This money is not available to the district unless the bonds were fully paid. This money is used to protect the bondholders should the district default on payments. Provided the district does not default on payments, it will be used to make the final

payments on the bonds in fiscal year 2016 for the 1994 revenue bonds and 2023 for the 1993 revenue bonds. Wolfback Ridge Special Assessment District bonds are outstanding and the district is the paying agent for those bonds. We hold \$185,259 in a reserve account to protect bondholders against default by property owners. The last item in the "Restricted" balance is \$2,419,084 of Fire Flow Parcel Fee Program money. This cash can only be used for the Fire Flow Master Plan project, which was approved by voters and is funded through a \$75 fee on property tax bills. Because it is restricted and can be used only for the voter-approved fire flow program, it cannot be considered part of the district's "reserves."

The designated portion of the restricted and designated cash and investments is made up of two items, Capital Projects, \$10,950,274, and Liability Claims, \$1,300,000. Capital projects represents an amount equal to depreciation, typically one year's worth, and the accumulation of one-time revenues from the sale of assets. This money is used solely for the construction and/or purchase of assets. Capital expenditures vary from year to year, but are normally budgeted at the \$12 - \$15 million range. One million three hundred thousand dollars is set aside to pay outstanding liability claims which are not covered by other insurance. The actual payments in the last three fiscal years have been in the \$225,000 to \$360,000 range. The district is self insured for the first \$100,000 of any claim.

Our actual "reserve" is closer to the \$29,389,665 reported in the "Current Assets" portion of the June 30, 2001 balance sheet as cash and investments.

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RECOMMENDATIONS:

1. Compensation for Directors is set in an open meeting, clearly agendaized and distributed to the press and public. It is difficult to respond to the recommendation beyond this. Justifications for all actions of the Board are a component of the written reports and verbal discussions governed by the Brown Act on each business meeting. That is the process and means for public explanations and "justification" to the constituency.
2. Again, this recommendation is a general statement blanketing all districts. Our board has two meetings per month and if there is a need for a special meeting, they call one. If there is a way to consolidate a meeting to eliminate one, they do. They always balance these meeting changes with the concern for consistency and dependability for those members of the public that do rely on a regular schedule of meetings.
3. Our district has maintained low compensation levels for the directors and does not agree that the directors should not receive medical or dental coverage. The duties and time demands on elected officials clearly vary from agency to agency depending on the scope of responsibilities of the agency itself and throughout any particular year. Serving on an elected board should also not be a hardship to any individual. It is already covered within their scope of responsibilities to set their compensation levels (see response # 1 above). We believe it should remain so. There is opportunity for those who disagree to express their opinion through the normal process when these issues are before the various boards.
4. Travel and conference is kept to a reasonable amount at MMWD.
6. (See also response to **Findings** item 8.) MMWD has a written policy on minimum reserves primarily related to the bond rating. Several years ago when the board was wrestling with the appropriate level at which to maintain the reserves, they concluded that maintaining minimums for all of the various categories such as liability, disaster, long range capital improvements, drought rate buffer, etc. resulted in a huge reserve level. Logic tells you that not all of these things happen at once and sufficient reserves is not a science but a matter of policy, opinion and risk assessment. The board has at its discretion at any time the ability to determine the appropriate level of reserves for all of the contingencies that may fall within the purview of the agency. They have not extended those reserves beyond their comfort and have also raised rates only once in eight years. (Indeed, the board cut rates and rescinded a series of planned 5% rate increases in 1995.) To calculate reserves using the methodology recommended by the Grand Jury would be inaccurate and incorrect. Levels of reserves are currently spelled out by board policy, bond covenant, and rating agency requirement. The board has stated that operating reserves, as a minimum, should be three months of operating expenses; approximately \$9,500,000. Bond covenants require net operating revenues to be 125% of annual debt service. Rates must be set to generate net income of at least \$6,500,000. The remaining variable in the water business is uncertainty. Due to the significant influence of weather on water sales, it is unclear how much water will be sold from year to year. We are primarily in a maintenance mode for capital projects. There is little work being done due to growth in the system. Typically it is the "growth" capital projects that would be financed through the issuance of notes or bonds. Maintenance work is typically paid through current rates and charges. Without sufficient reserves to cover annual capital spending, the rate would have to be adjusted frequently to balance the cash flow needed. As shown in the "Projected Fund Balance" spreadsheet provided to the Grand Jury earlier, MMWD's reserves will be going down over the next few years. The current \$29.4 million is expected

to decrease to \$20.4 million by June 30, 2003, the end of the current fiscal year.

7. (See response to Findings item 6.) GASB is the body that governs governmental financial reporting. To have the County Auditor and the special districts adopt some other terminology and reporting format is not a viable option. If this concept caught on and was implemented throughout California you could have 58 different reporting methods and sets of standard terminology. A better solution would be to recommend that special districts conform to GASB Statements and Pronouncements if they are not currently doing so. Also, GFOA provides excellent training in how to accurately and appropriately implement the GASB Statements and Pronouncements in the governmental unit's financial reports. We should not be recreating the wheel, but instead using the expertise already in place.

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