

Grand jury out of money, takes county to court for more

By Kathryn Reed

El Dorado County's civil grand jury has spent all of the money allocated to it – \$40,442 – and now wants a judge to tell the Board of Supervisors to keep paying any bill that comes in through June 30 – the end of the fiscal year.



The county doesn't want to give any entity a blank check.

The money issue is now tied up in court. Interpretation of the Penal Code is one of the controversies.

Penal Code Section 890.1 states: *The per diem and mileage of grand jurors where allowed by law shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor upon the written order of the judge of the superior court of the county.*

Penal Code Section 914.5 states: *The grand jury shall not spend money or incur obligations in excess of the amount budgeted for its investigative activities pursuant to this chapter by the county board of supervisors unless the proposed expenditure is approved in advance by the presiding judge of the superior court after the board of supervisors has been advised of the request.*

El Dorado County Superior Court Judge Steve Bailey is expected

to make a ruling Feb. 15 based on the testimony that was given in January.

But Bailey in a July 2011 court order outlined how payments should be structured for this grand jury. It's possible the ruling later this month will change that protocol.

Foreman Ted Long is allowed to sign all paperwork for members to get paid without anyone double checking his numbers or validating the work was done. Long is a former South Lake Tahoe city councilman who ran into controversy regarding finances while he served as president of the Clean Tahoe board. A nearly year-long police investigation that started in 2006 resulted in no criminal charges being filed against anyone. (Clean Tahoe was part of the 2007-08 grand jury report.)

The 19-member grand jury is entitled to \$15 per day worked and the IRS mileage rate, which is currently 55.5 cents per mile, according to the Penal Code. But the county also gives it a fixed budget – like any body whose budget it oversees.

With six members residing in the Lake Tahoe Basin, it means more miles driven than most years because weekly meetings are in Placerville, as are other points of business for this oversight body. In previous years there have been one or two Tahoe residents on the grand jury, so mileage was less of an issue.

“The El Dorado civil grand jury is an investigatory body created for the protection of society and the enforcement of the law. It is an arm of the court and a representative of the public. Although it is an arm of the court, it operates independently of direct court supervision. It is a check against governmental authority. It is not a branch of the county, nor is it answerable to the district attorney,” the county's website says in explaining what the grand jury is.

Still, it is the county that pays the grand jury's bills, it

is the District Attorney's Office representing it in court, and it is Judge Bailey who is overseeing everything.

"The question is what to do when the grand jury thinks it needs more money," Ed Knapp, county counsel, told *Lake Tahoe News*. "The board can augment the budget or it can express to the court why it doesn't want to do it."

All county department budgets keep being slashed. The grand jury's was cut in half for this fiscal year.

Knapp said with the county looking at an \$8.5 million gap to close by July 1, all entities in the county would keep being pinched.

But Long, who is on his third stint on the grand jury – having served last year and eight years ago, says the grand jury should not sustain across-the-board cuts like other departments because members need the latitude to do their job and shouldn't have to ask the people they may be investigating to fund the operation.

Last week he sent a settlement proposal to Knapp and others about how to resolve the situation.

He told *Lake Tahoe News* fixed costs like the copy machine and phone are a known quantity, but sometimes there are outside expenses like eight years ago when an auditor was hired by the grand jury to look at South Lake Tahoe's Redevelopment Agency. Long would like a reserve of \$10,000 set aside each year for those surprise expenses. He'd also like an average of the last few years' worth of budgets to help determine what should be allocated going forward for mileage.

The meeting room in Placerville is not set up for teleconferencing, but that could change.

Supervisor Norma Santiago said, "This would save the grand jury on their traveling expenses, which is one of the primary

causes for the increase in expenses.”

She said other departments could also use the technology.

What's being investigated?

While the grand jury investigations are somewhat secretive in that the members may not talk about what they are working on, but those being investigated may.

In fact, the Feb. 2 South Tahoe Public Utility District meeting has an agenda item that is for the board to be brought up to speed about what staff has been telling the grand jury.

Water meters are a big part of what the grand jury is asking about, according Dennis Cocking, spokesman for the district.

South Lake Tahoe is also under scrutiny. City Manager Tony O'Rourke said he has been questioned about refinancing the city-owned ice rink and “whether the city should be swallowed by the county.”

While O'Rourke believes in the function of the grand jury, he told *Lake Tahoe News* he would hope it would investigate corruption and more valid complaints.

Long said this year about one-third of the 12 active investigations are centered in the basin.

The report will come out in late June or early July.