

CONTRA COSTA COUNTY GRAND JURY REPORT 0806

FINDINGS

1. The District was formed in 1948, and in the early 1950's, acquired the Concord Community Hospital, later known as Mt. Diablo Medical Center. The District owned and operated the hospital until 1996.

We agree.

2. The District boundaries encompass the cities of Concord, Martinez, portions of Lafayette and Pleasant Hill, and adjacent unincorporated areas.

We agree.

The population of the three cities is 195,241. The assessed property value is \$19,240, 094,703.00. That is less than \$1.00/person. This is not adequate to run a Health Care District.

3. The District is governed by a five-member Board of Directors (Board) elected by the voters within the District.

We agree.

4. In 1996, under threat of financial insolvency, the District transferred the Mt. Diablo Medical Center and all related property and assets to John Muir Medical Center (now John Muir Health), a private, non-profit corporation. Mt. Diablo Medical Center is now operated as the Concord Campus of John Muir Health.

We agree.

5. Since 1996, the District has not owned or operated a hospital and has not provided hospital, physician, or emergency medical services of any kind.

We agree and wish to clarify.

There are more ill people in the community than there are in hospitals. The Legislature has challenged all Health Care Districts to serve the health needs of the community outside the hospital walls. Now that our legal debt is retired, we have redefined our role to serve that population.

6. The District has not had permanent, full-time employees for many years. In March of 2008, a part-time clerical employee was hired. The 2008 budget for this employee is \$12,000. Board members have performed all District administrative tasks, and some Board members have been occasional volunteers disseminating health-related information and services in the community. John Muir Health provides the District with office, meeting, and conference space.

We agree.

7. The primary source of District income comes from property taxes levied on District homeowners and businesses. The District also receives an annual \$25,000 subsidy from John Muir Health.

We agree.

8. The District's total annual revenues are as follows:

<u>Year</u>	<u>Property Tax Revenue</u>	<u>Total Revenue</u>
2004	\$203,594	\$236,783
2005	223,369	266,869
2006	255,649	296,638
2007*	241,000	266,200
2008*	241,000	<u>266,000</u>

Total five-year revenue: \$1,322,490**

*Budgeted

**Total revenues include miscellaneous income; e.g., interest earnings

We partially disagree.

The Grand Jury included 2007 and 2008 in the statements which are estimate revenue compared with 2004, 2005, 2006 which are actual revenues received. This presents a negative bias. The results are misleading and the assumption is that nothing would be done in 2008. (Please see attachment.)

9. District administrative and operating expenses have consumed nearly all of its revenues over the past four years. Expenses have included the cost of elections, legal and audit fees, Board member stipends, and the premiums for medical and dental insurance provided to current and retired directors. A percentage of expense summary, based on audited financial statements, follows:

	<u>2004</u>	<u>2005</u>	<u>2006</u>
Post-Retirement Costs	0%	0%	46%
Election Costs	40%	0%	24%
Insurance	17%	45%	14%
Professional Fees	4%	20%	0%
Legal Fees	27%	16%	9%
Director Stipends	5%	7%	0%
Other Expenses	<u>7%</u>	<u>12%</u>	<u>7%</u>
Total:	100%	100%	100%

We agree.

A large part of our expenses from mandated insurance premiums, operation costs and state required dues as well as legal fees from conflict over the merger agreement have absorb so much of our revenue, that until legal debt was paid, monies were not available.

10. In 2004, 2005, and 2006, the District did not spend any of its total revenues to provide or advance health care for the District's taxpayers or residents. The District spent 100% of its total revenues for administrative and operating expenses.

We disagree.

The Board with the support of the community entered into litigation over a breach in the merger agreement with John Muir Health. The Birthing Center was removed from the Mt. Diablo Hospital and relocated to Walnut Creek. John Muir removed much needed health services from our community. The legal expenses of this conflict were very costly. This was spent to benefit the community. In 2004, 2005, 2006 the District was decreasing the legal debt incurred. Legal fees were paid in full by August 2007.

11. Budget projections and unaudited accounting statements for a part of 2007 reveal a similar pattern as that shown for 2004-2006; no money was spent for health care.

We disagree.

Budget projections were unsure at the beginning of 2007. However, with the payment of the legal fees behind us the Board began strategic planning for programs to be implemented in 2008. Programs developed by the strategic plan are; Healthy Lifestyles, Health Services, Health Access, Support Services, Work Force Development.

12. Some District board members participated in volunteer activities during 2004-2007 at no cost to the District. For example, volunteers distributed health-related brochures and conducted blood pressure screenings. They offered such services a half dozen times in 2007 at community activities such as farmers' markets. District director volunteers also promoted an anti-truancy program for local students.

We agree and clarify.

Health booths were provided by the district at farmer's market as a preventive approach to improving the health of the district. These booths have been very successful in challenged life-style choices and uncovering undiagnosed hypertension. When the District did not have extra funds to spend on programs, Board members were committed to serve the community by volunteering there time and their personal funds.

13. The District claims credit for a single \$5000 donation in 2007 to the nursing program at California State University East Bay. The purpose was a scholarship. The donation was not a budget item, but represented re-directed funds that reportedly had been set aside for a director's stipend.

We disagree.

The discrepancy over budget and monies actually available after all monies received by the end of the year carried over to provide funds for a nursing scholarship.

14. The scholarship donation is the only expenditure the District has made for a health-related purpose since 1996.

We disagree.

The expenditure of funds for the return of the Birthing Center is health related. Health booths and projects-

- ***"Project: HEROES" a children's obesity prevention program took an enormous amount of organization with various members of our community.***

The program was developed last year for the Martinez Unified School District. Kaiser Health Foundation granted the committee for this project \$15,000 and the District Board granted \$25,000 for implementation.

However, the project is on hold because the Martinez School District backed out at the last minute.

We are working to establish this program in the Mt. Diablo School District.

15. On February 8, 2008, the District's Board adopted a budget for calendar year 2008. The budget contains a line item allocating \$70,000 to "community Activities." No specific activities or projects were approved at the time the budget was adopted.

We agree and clarify.

The District Board was working on several projects:

The HeartSafe/AED program. *This program is in collaboration with Los Medanos Community Health Care District. We Will have distributed 5 AEDs by the end of the year and placed each in areas based on public need. Amount of \$14,000 has been budgeted*

Community Health Fund Grant Program. *The grant fund is a partnership of moneys between John Muir Health and Mt. Diablo Health Care District. The Board has contributed \$133,000, Interviews with potential grantees are already underway and funds should be distributed by the end of October. Grants will fund an organization for one year. The areas of focus based on the strategic plan are:*

- *Senior health*
- *Teen awareness of STD's*
- *Continuation of the Isabelle Chenoweth Nursing Scholarship started last year.*
- *Children and Obesity.*
- *Dental*

John Muir/Mt. Diablo Community Health Fund. *As part of the merger agreement, every year this fund gives out approximately 1 million dollars to organizations who meet health needs of high risk populations within the community. Five members from John Muir Health and 5 members from Mt. Diablo Health Care District sit on the Board that distributes these funds.(See Attachment)*

16. The parties to the 1996 agreement between the District and John Muir Health continue to perform their obligations pursuant to their agreement.

We disagree.

John Muir Health removed the Birthing Center that they promised to expand on the Concord Campus. They promoted a merger of "equals" and then removed our CEO, our CFO, and removed 2 District Board

Members from the System Board and one District Board Member from the Network Board, and there were plans to remove the Heart Institute.

The Mt. Diablo Health Care District is the "watch dog" for the Merger Agreement.

The Mt. Diablo Health Care District Board has the responsibility to reject any transactions that would have the effect of transferring control over Mt. Diablo Concord Campus from John Muir Health to some other entity.

17. John Muir Health created a Community Health Fund pursuant to the agreement, to which it has made contributions of \$1 million annually intended for community grants to improve public health.

We agree and wish to clarify.

It was Mt. Diablo Health Care District that insisted that the John Muir/Mt. Diablo Community Health Fund be part of the Community Benefit Agreement and disburse \$1 Million annually to the community.

18. The District contends that under the terms of the 1996 agreement with John Muir Health, it has continuing responsibilities. For example, the agreement provides that certain defaults by John Muir Health would result in termination of the agreement and permit the District to recover assets from John Muir Health, including the Mt. Diablo Medical Center building and property transferred by the District in 1996.

We agree.

19. There is no suggestion by the District in the public record, including the District's submissions to LAFCO, that there is any reasonably foreseeable possibility of default by John Muir Health under the 1996 agreement that would trigger the rights reserved by the District to recover the hospital. John Muir Health recently began a major addition to its Concord campus, an event that makes such a default highly unlikely.

We disagree.

There was no suggestion that foresaw the breach in the agreement, that John Muir Health would violate the Merger Agreement when they removed the Birthing Center from Mt. Diablo Medical Center. Recently, they had plans to move the Heart Institute to John Muir Health. Several district hospitals in California have now been returned to their districts after a merger failed, i.e. nearby hospital in west Contra Costa County. Many hospitals across the country have been forced to close their doors. If Contra Costa County becomes limited in the ability to care for poor and indigent due to budget cuts, those people will seek care at the private

hospitals. Beds would be filled with patients who cannot pay for care or where reimbursement is minimal.

20. The District controls neither the board of directors of John Muir Health nor the Community Health Fund established through the 1996 merger agreement.

We disagree

The John Muir/ Mt. Diablo Community Health Fund was a obligation of John Muir as a result of the merger agreement. The John Muir/Mt. Diablo Community Health Fund Board is made up of 5 members from John Muir Health and 5 members from the Mt. Diablo Health Care District. The District controls 50% of the decision makers to that Board. Over \$12 Million has been granted to the community through grants agreed on by the this Board.

21. The District and John Muir Health are currently negotiating another agreement. This proposal would establish a conduit to provide grant funds to the District to be passed through the District to selected organizations. A one-year agreement is likely. The District would incur administrative expenses in its role as a conduit for the grants.

We agree and clarify.

The District is pleased to have negotiated a Public/Private Partnership with John Muir Health. Mt. Diablo Health Care District will contribute \$133,000 and John Muir Health will contribute \$140,000. This collaboration will benefit the Mt. Diablo Health Care District. (See attachment and Dudek report to LAFCO) The Board has budgeted \$12,000 in clerical fees. A program manager may be needed in the future.

22. As part of the arrangements to secure the grant contract with John Muir Health, the District's 2008 budget line item entitled "Community Activities" was increased from \$70,000 to \$130,000, effective May 1, 2008. The District also has plans to hire a part-time executive director to administer the anticipated grant program. A new budget line item, also effective May 1, 2008, allocates \$39,996 for a "CEO/Administrator." As of that date, the District had not created a job description for the new position.

We agree.

23. The District's revised budget, as of May 1, 2008, calls for a total annual operating budget of \$328,300. Anticipated 2008 revenues remain unchanged, at \$266,200.

We agree and clarify.

On May 16, 2008, the board was notified of estimated tax revenue to be paid. The updated estimated revenue for 2008 would be \$323,500.

24. The Contra Costa County Local Agency Formation Commission (LAFCO) is responsible for studying special districts and the services they provide. LAFCO accomplishes this by completing periodic Municipal Services Reviews (MSR). Typically, the MSR process is completed every five years for special districts such as the Mt. Diablo Health Care District.

We agree.

25. In August 2007, LAFCO completed its MSR for the District. While it did not recommend dissolution of the District, LAFCO recognized that additional scrutiny was warranted and directed the District to provide it with an interim report in 2008 on its activities and expenditures.

We agree and clarify.

The reported stated "Maintain status quo, with annual reports to LAFCO".

Under Suggestions: Mt. Diablo Health Care District, "Pursue opportunities to participate in Joint Powers Agreements and other programs to reduce liability and medical insurance costs."

26. Dissolution of the District may be initiated by either Board action or a petition of District voters.

We partially disagree.

While the Board may initiate the dissolution of the District it requires a vote of the people to dissolve the District, not merely a petition.

27. Upon dissolution, the District's rights and obligations, both existing and contingent, would have to be taken over by another agency.

We disagree.

- *The succession as described in the Cortese-Knox-Hertzberg bill states that the city in which the District resides is the successor.*
- *The city of Concord would have to administer the District Funds, which could only be spent for health related projects.*
- *Mt. Diablo Health Care District as a Special District is focused on health care only.*

- *This means the city would have to hire a Health Program administrator. The city would move in an unfamiliar direction.*
- *The city would have to absorb the future cost of Board Health Benefits.*
- *There would be election costs to dissolve the District (\$80,000)*
- *Litigation to dissolve the Merger Agreement is costly*
- *Loss of the \$1 million annual grant from the John Muir/Mt. Diablo Community Health Fund. (part of the merger agreement).*
- *Litigation with the State of California regarding the District's oversight of 2 employee pension funds (which they would not allow the District to turn over to John Muir Health).*

28. The District has never adopted a plan for its dissolution, nor has the Board ever proposed a study of how to accomplish the District's dissolution.

We agree.

The board majority feels there is much to accomplish and we have a job to do. We see no reason to adopt a plan for dissolution although one is spelled out in the Cortese-Knox Hertzberg.

CONCLUSIONS

1. Since the last Grand Jury report in 2003, the District has not contributed any significant financial support to benefit the health and welfare of its residents. It has collected and spent over \$1.3 million of taxpayer money, virtually all of which was used to pay for administrative and operating expenses--to perpetuate the District's existence.
 - *The District has spent much of the revenue collected on legal fees attempting to keep health resources in our community. State mandated requirements has also eaten up a large amount of revenue. Since legal fees are no longer a cost to the District, that money being channeled into programs that benefit the health of our community.*
 - *The District is one half of the John Muir/Mt. Diablo Community Health Fund Board and has contributed over \$12 Million in "tax-free dollars" to our community through collaboration with other foundations*
 - *The District paid a significant price defending the Birthing Center to remain in our community.*
 - *The District is mandated to pay \$80,000 for election costs plus insurance, and professional services of a CPA and Auditor. It is true the District does not receive what other Health Care Districts do in the State because of the County Auditor's questionable view of Prop. 13 resource distribution in our district.*

- *As with any office conducting business, cost are incurred. The costs have not been extravagant but suitable to our mission.*
- *The Grand Jury has made its report with most of its conclusions based on negative input. The summary of this report gives the positive side of the Mt Diablo Health Care District working to increase the health of our constituents.*
- *The District, despite all of its challenges, is dedicated to serve the health needs of our community.*

2. The proposed grant donation agreement between the District and John Muir Health, which is likely to result in new administrative costs, including the salary and benefits of new staff, will not benefit the District. The District's 2008 budget allocations for staff expense and its "Community Activities" appear to be unrealistic, especially since budgeted 2008 expenses exceed anticipated revenues by \$62,000 (23%).

The proposed grant agreement stipulates all monies to be spent only in the district. The estimated revenues for 2008 have increased and meet budget requirements.

3. During the course of its investigation, the Grand Jury did not find any instances of malfeasance, and does not imply that any such culpability exists. Volunteer activities are commendable, but they do not require the cachet of a government agency.

We agree as this proves the value of operation costs and mandated expenses are important to good financial management and transparency.

4. Public officials who preside over obsolete organizations like the Mt. Diablo Health Care District need to act responsibly and provide for the agency's demise, including the orderly and efficient transfer of assets to, and assumption of liabilities by, successor agencies.

It is obvious that the Grand Jury has not considered the evolution of the Mt Diablo Health Care District post legal obligations. Over the past 18 months, the Board has planned and prepared programs only now coming to fruition. That the Grand Jury chose a time of financial ebb without any thought given to potential, is a deceptive perspective. The district board is well aware of the Cortese-Knox-Hertzberg Local Government Reorganization Act 2000. It's far too costly to implement.

RECOMMENDATIONS

The 2007-2008 Contra Costa County Grand Jury recommends that:

1. Within six months of this report, the District's Board of Directors drafts a written plan for the dissolution of the District. The dissolution plan should include:
 - a. A detailed task list, including time estimates for completion, of all steps required to complete the dissolution in an orderly and efficient manner.
 - b. Identification of problems related to District obligations to provide health insurance benefits to present and former District Board members, and recommended solutions to those problems.
 - c. Identification of all possible future events that likely would be necessary to create either rights in, or obligations of, the District under the 1996 agreement with John Muir Health or any other long-term contracts.
 - d. Evaluations of other public agencies that are qualified to act as successors to the District in connection with any possible future events or transactions, and corresponding rights and obligations.

The recommendation will not be implemented because it is not warranted or is not reasonable. The district does not intend to create a plan for dissolution instead; we will complete the strategic plan that we have for 2008 to contribute \$250,000 to better serve the health of the community.

2. Within six months of this report, the District submits the dissolution plan to LAFCO as part of the report required by that agency during the District's 2007 Municipal Services Review.

LAFCO is aware of our past and present position and has not recommended dissolution. Your conclusions have been misleading and biased on the present course for the Mt. Diablo Health Care District. A representative of the District Board met with the CEO of LAFCO and presented the new Strategic Plan and recommends the Board proceed. She understood that "planning is a process and not an overnight event."


John R. Toth DO, Chairman