

## Shasta County Grand Jury

### The Quarter Million Dollar Typo Words Matter



#### SUMMARY

A 2008 resolution with a typo, approved by the Shasta County Board of Supervisors, will cost Shasta County taxpayers more than \$260,000 from 2009 through 2023. The resolution omitted the word “appointed” from the staff recommendation to make appointed department heads eligible for a longevity stipend after completing 20 years of service. When this omission was discovered in early 2015, the legal interpretation of the resolution was that eligibility for longevity stipends also applied to elected department heads, retroactive to 2009. The Board of Supervisors decided to leave the 2008 resolution in place. The total amount of longevity stipends for two current and three future eligible elected department heads is projected to total \$263,089 by 2023. The Shasta County Grand Jury found that awarding longevity stipends to elected officials is inconsistent with the purpose of the stipends, and is arguably an inappropriate use of public funds.

#### BACKGROUND

An article published in the Record Searchlight in May 2015 inspired this investigation. The article indicated that two elected department heads would be receiving retroactive longevity stipends of approximately \$72,000. The actual amount of the retroactive longevity stipend totaled \$68,452.

Shasta County Personnel Rules do not classify or define longevity stipends as salary or benefits. However, the Personnel Rules include the longevity stipend under CHAPTER 15 titled MANAGEMENT BENEFITS, SECTION 15.21 LONGEVITY STIPEND. It states “Effective October 27, 2007, the County will implement a 5% (five percent) longevity stipend for non-executive unrepresented managers who have at least 20 years of cumulative service with Shasta County, of which at least two years shall serve in a management position. Effective January 4, 2009, the County will implement a 5% longevity stipend for executive unrepresented managers (department heads).” The people interviewed during the investigation described the stipend as an incentive to encourage skilled and professional staff to remain employed with Shasta County, thus avoiding the cost and frustration of turnover, training, and recruiting of key staff. Since elected county officials (some referred to as department heads) choose to run for office and are elected by and serve at the will of the people of Shasta County, a longevity stipend to retain them should not apply. The Grand Jury questions whether this is an appropriate use of public funds.

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During this investigation, the Grand Jury learned there are several different types of department heads, also referred to as managers. There are represented managers (represented by a union), unrepresented managers, and unrepresented executive managers (not represented by a union). There are two types of unrepresented executive managers: those who are appointed to a position and those who are elected to hold public office. Periodically, the Shasta County Administration reviews the benefits offered to all of the unrepresented managers, both executive and non-executive, to ensure a balance of benefits offered. County Administration reported that unrepresented managers were receiving this longevity stipend, but unrepresented executive managers were not. At a November 18, 2008, Board of Supervisors meeting, county staff recommended the Board of Supervisors approve a resolution to provide the longevity stipend for both the unrepresented managers and the appointed unrepresented executive managers. A motion to approve the staff recommendation was made, seconded, discussed, and passed. The staff recommendation that was voted on and passed specified, “appointed executive management employees (department heads)” with no mention of elected executive management employees. The minutes from this same meeting also reflect the Board of Supervisors approved the longevity stipend for “appointed executive management employees (department heads)” with no mention of elected executive managers.

When a new resolution is passed it is signed by the Board of Supervisors Chairperson and added as a permanent resolution. The typo, leaving out the word “appointed”, occurred at the time Resolution 2008-138 was prepared and presented for signing. The resolution should have had the exact wording as the staff recommendation since that is what was approved by the Board of Supervisors. By leaving out the word “appointed” the resolution is now interpreted to include both appointed and elected unrepresented executive managers.

Two elected officials qualify for the longevity stipend under the current resolution for 2009 through 2014. An additional elected official became eligible in 2015, and two more will be eligible in 2019. The total cost to the taxpayers between the years of 2009 through 2023 will be \$263,089, as seen in the table included in this report. The longevity stipends will continue indefinitely if a new resolution is not passed amending or correcting the initial resolution.

### METHODOLOGY

- Interviewed Chair - Shasta County Board of Supervisors
- Interviewed a Deputy County Counsel
- Reviewed Shasta County Board of Supervisors meeting minutes and videos of November 18, 2008, and May 12, 2015
- Reviewed Shasta County Board of Supervisors closed session meeting minutes of October 28, 2008
- Reviewed Staff Recommendation Reports of November 18, 2008, and May 12, 2015
- Reviewed Draft Resolution dated May 12, 2015
- Reviewed Resolution 2008-138
- Reviewed documents pertaining to Shasta County personnel, including:
  - Shasta County Personnel Rules Chapters 6 and 15
  - Shasta County Personnel change log

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- Shasta County Personnel Department accrued longevity stipends report regarding elected county officials and anticipated future stipends to be awarded to eligible elected county officials
  - Reviewed Government Code Section 1235
  - Reviewed various media articles

### DISCUSSION

At the May 12, 2015, Board of Supervisors meeting, the language of Resolution 2008-138 was determined by County Counsel to include elected officials as well as appointed department heads. County Counsel advised that Shasta County was legally obligated to pay the stipend to eligible elected department heads retroactive to January 1, 2009. Furthermore, in the Board of Supervisors meeting video of May 12, 2015, County Counsel also advised the stipend must be paid for the remainder of the elected officials' terms of office. Referencing Government Code Section 1235, County Counsel stated, "You can't make changes after an individual has taken out the requisite forms for the office. The rationale is that they have an expectation as to what the salary will be in that office when they take out the forms and file for that office".

The Grand Jury confirmed with both the Shasta County Clerk and the Director of Support Services that candidates for elected office in 2010 and 2014 received only salary information at the time they filed. The candidates did not receive information regarding any other benefits, including longevity stipends.

Government Code Section 1235 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." Neither the Government Code nor County Personnel Rules define "salary", or whether longevity stipends are considered salary. However, County Personnel Rules do include longevity stipends under "CHAPTER 15. MANAGEMENT BENEFITS".

The staff report recommendation at the May 12, 2015, Board of Supervisors meeting was twofold: 1) that the county pay two elected officials retroactively from January 1, 2009, through the end of their term on December 31, 2018; and 2) adoption of a resolution that would amend the Shasta County Personnel Rules to make elected executive management no longer eligible to receive longevity stipends effective January 1, 2019. The first recommendation did not require a motion because the resolution supporting it already existed. The second recommendation failed by a vote of 3 to 2, leaving Resolution 2008-138 in place. Voting against terminating the stipend for elected officials were Supervisors Baugh, Schappell, and Giacomini; voting in favor of terminating the stipend for elected officials were Supervisors Kehoe and Moty. As long as Resolution 2008-138 remains in place, the longevity stipend for elected officials will continue indefinitely.

The total cost of longevity stipends for elected officials, assuming that they are re-elected, will amount to \$263,089 between 2009 and 2023. There is potential for a greater cost if additional elected offices are won by candidates with many years of county service.

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At the May 12, 2015, Board of Supervisors meeting, County Counsel expressed the opinion that the longevity stipend does not include the Board of Supervisors. However, the information provided to the Grand Jury from Shasta County Human Resources reflects that a Board of Supervisors member will receive a stipend beginning in 2019, as shown in the Longevity Stipend Table:

<b>Longevity Stipend Table</b>				
<b>Elected Official</b>	<b>2009-2014</b>	<b>2015-2018</b>	<b>2019-2023</b>	<b>Total</b>
Sheriff – Bosenko, Thomas	\$38,217	\$27,028	\$33,867	\$99,112
Treasurer/Tax Collector – Scott, Lori	\$30,235	\$21,382	\$26,794	\$78,411
Assessor – Morgan, Dolores Leslie		\$18,342	\$30,571	\$48,913
County Clerk – Allen, Catherine Darling			\$23,369	\$23,369
Board of Supervisor – Kehoe, David A.			\$13,284	\$13,284
<b>Total</b>	<b>\$68,452</b>	<b>\$66,752</b>	<b>\$127,885</b>	<b>\$263,089</b>

### FINDINGS

- F1. The word “appointed” in the Staff Recommendation was omitted from Resolution 2008-138 when it was prepared and signed. This resulted in the resolution later being interpreted to include both appointed and elected executive managers (department heads).
- F2. As long as Resolution 2008-138 remains in place, eligibility of elected department heads for longevity stipends will continue indefinitely at the expense of taxpayers.

### RECOMMENDATIONS

- R1. The Grand Jury recommends that, no later than September 30, 2016, the Board of Supervisors adopts a policy of proofreading draft resolutions to ensure that they accurately reflect the staff recommendations, and that the wording of final resolutions reflect the actual action taken by the Board of Supervisors.
- R2. The Grand Jury recommends that the Board of Supervisors adopts a new resolution that clearly states that the longevity stipend is applicable for appointed executive managers (department heads), but not applicable for elected officials. The Grand Jury also recommends that all stipends end for elected officials effective at the conclusion of their respective terms of office, or December 31, 2018, whichever occurs first.

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### REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the following response is required:

From the following governing body (within 90 days):

- Shasta County Board of Supervisors: **F1, F2 and R1, R2**

**The Grand Jury recommends that all governing bodies place their responses to all Grand Jury Reports on their Regular Calendars for public discussion, not on their Consent Calendars.**

### INVITED RESPONSES

The Grand Jury invites the following response:

**NONE**

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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