

TOWER OF SHAME

BACKGROUND:

At the close of World War II, the citizens of Tulare began working to raise the funds to build their own hospital.

The hospital had been a topic of discussion throughout the community since 1937. Several attempts to pass bond measures failed. Then in January 1946, two consecutive bonds were passed and, with Federal government aid, the Tulare Local Healthcare District was formed. The first hospital board was appointed by the County Board of Supervisors.

The construction of the new \$1.1 Million, 86-bed hospital began on May 23, 1949 with a groundbreaking ceremony. Less than two years later, on February 18, 1951, the dedication ceremony for the much-anticipated Tulare District Hospital (TDH) took place.

In December 1989, the hospital broke ground on a \$21 Million expansion and renovation project. This project was completed in 1993, which included remodeled patient rooms, lobby, and an expanded ICU and a new pediatric unit.

In 2009, what had been known as TDH changed its name to Tulare Regional Medical Center (TRMC). While remaining a General Acute Care Facility licensed for 112 inpatient beds, services are designed to meet the continuum of healthcare needs. Tulare Local Healthcare District, DBA TRMC is accredited by the Joint Commission on Accreditation of Healthcare Organizations and DNV Healthcare, Inc. Mineral King Toxicology Laboratory, a division of TRMC, is one of only four Toxicology laboratories in California, accredited by the College of American Pathologists.

The issuance of general obligation bonds in an aggregate amount not to exceed \$85 Million by the Tulare Local Health Care District (TLHCD) was authorized at an election of the registered voters of the TLHCD held on September 13, 2005. This election garnered approximately 83% of the persons voting on the measure. Pursuant to the laws of the State of California and a resolution of the TLHCD, the TLHCD issued an initial series of such bonds in the amount of \$15 Million on August 21, 2007. The TLHCD issued general obligation bonds in two final series authorized in the aggregate amount of \$70 Million. Proceeds of the Bonds have been used to pay costs related to the construction and equipping of an expansion and renovation of the District's Hospital located on the southwest corner of Cherry Street and Merritt Avenue in the City of Tulare.

The Bonds represent the general obligation of the TLHCD. The TLHCD is empowered and obligated to cause to be levied ad valorem (property) taxes, without limitation of rate or amount, upon all property within the TLHCD subject to taxation by the TLHCD (except certain personal property which is taxable at limited rates), for the payment of interest on and principal of the Bonds when due. Tulare County will collect all ad valorem taxes due to the TLHCD, and pursuant to agreement will disburse them to the Paying Agent to be applied to the payment of principal of and interest on the Bonds.

Following the issuance of the initial series of bonds in 2007, TLHCD embarked upon Phase I of a facility Master Plan. Phase I includes the construction of a 107,000 square foot tower connecting to the southern wall of the existing hospital building. This tower was designed to include a full basement and house an 11,000 square foot, 24-bed emergency department; a diagnostic department and associated equipment; a 16-bed obstetrics unit; 4 surgery suites; and 27 new private patient rooms.

Subsequent phases of the Master Plan are still conceptual. Phase II of the Master Plan involves the construction of a second tower located to the west of the Phase I tower. Phase II would include a new Central Plant. Completion of Phase II would allow demolition of most of the existing hospital facility. The main Hospital entrance would be reoriented at that time. As this report is written, the design, budget, funding plans and construction time lines for Phase II have not been completed.

REASON FOR INVESTIGATION:

The Tulare County Grand Jury received a citizen complaint alleging willful failure on the part of the TLHCD Board of Directors to disclose details surrounding the expenditure of proceeds from the bonds. Additionally, it alleged gross malfeasance in the management of the construction of Phase I and gave impetus to this investigation.

METHOD OF INVESTIGATION:

In response to the concerned citizen's complaint about the TLHCD's issuance and expenditure of \$85 Million dollars in tower construction bonds, the Grand Jury investigated expenses related to the Bond Funds. The Grand Jury reviewed numerous documents; including financial statements, District Board Minutes, construction and expense data. The Grand Jury interviewed hospital representatives and district residents.

FACTS

1. Prior to the initial (2005) bond election, a Bond Oversight Committee was appointed, ostensibly to provide independent oversight of the expenditure of bond funds as well as the management of projects to which bond funds were to be allocated.
2. The Bond Oversight Committee repeatedly requested detailed financial information which was never provided.
3. As of February 1, 2016, the Phase I project, which began with the issuance of bonds in August 2007, has not been completed and its corresponding structures are vacant.
4. Prior to the initiation of Phase I, members of the TLHCD Board of Directors were made aware of the fact that estimates of the total cost of the project exceeded \$120 Million and that proceeds from an \$85 Million bond issue would be insufficient to complete the project.

5. During the period of time from January of 2010 through December of 2015, there is an absence of detailed disclosure of financial aspects of the Tower I project in TLHCD board minutes. Moreover, the minimal amount that was disclosed was found to be inaccurate.
6. TLHCD often times failed to disclose pertinent information (to which taxpayers are entitled) related to the financial aspects of the Phase I Project.
7. During the period of time from 2008 to 2014, TLHCD Directors hired; fired; hired again and fired again the same individual to serve in the capacity of Chief Executive Officer of TRMC with attendant severance packages ultimately costing in the hundreds of thousands of dollars.
8. A significant delay in construction of Phase I occurred due to the delamination of the concrete poured by the contractor on the upper floors of Tower I. This in turn, led to litigation which resulted in TLHCD being directed by the court to settle with the original contractor at an expense of \$7.9 Million to TLHCD taxpayers.
9. TLHCD did not engage the services of an **independent** construction manager until February 26, 2013, well over four years after construction on the Phase I project began.
10. As of November 13, 2013, the Phase I Project had in excess of seven hundred (700) change orders and over five thousand (5000) "RFI's" (requests for information) recorded, each of which constitutes an expense over and above the contractor's original estimate of total cost of construction. In this case, the additional costs totaled \$17,511,869.

FINDINGS:

- F1. The TLHCD routinely withheld pertinent information and financial data from the Bond Oversight Committee, thus rendering the Committee incapable of performing its oversight function.
- F2. The Bond Oversight Committee failed to exercise due diligence in following up on requests for detailed financial information which was necessary for the independent oversight of the expenditure of bond funds.
- F3. The 2005 voter authorized \$85 Million in bonds has been completely expended. At the time this report was drafted, TLHCD had only an uncompleted and non-functional structure to show for it.
- F4. It appears that TLHCD either intentionally or unintentionally failed to comprehend the issue of the cost differential between the \$85 Million in bond authorization and the total project cost estimated to be well in excess of \$100 Million. It further appears that TLHCD attempted to justify their position by unsupported estimates of reserves and projection of future revenues.

- F5. Strict and complex statutes regarding public disclosure of information pertaining to the expenditure of funds proceeding from the issuance of bonds, appear to have been routinely circumvented by the TLHCD Board of Directors.
- F6. Minutes of TLHCD meetings from January 2010 through December of 2015 fail to disclose the dire situation into which the Phase I project had devolved, thus leaving TLHCD taxpayers without direct access to information to which they were entitled.
- F7. The turmoil surrounding the personnel turnover at the top of the TLHCD management structure served to distract Board Members' attention from the Phase I Project, thus leading to additional delays and severance agreements in the hundreds of thousands of dollars.
- F8. The court ordered settlement represents 9.29 percent of the \$85 Million in proceeds from the sale of bonds and required funds needed to complete Phase I to be allocated to a purpose other than construction.

CONCLUSION:

The Tulare County Grand Jury undertook investigation of this complaint with the goal of uncovering truths and answering questions which had been withheld from the public for nearly a decade (from commencement of construction of the Phase I Tower in 2005, through the end of 2015). Seven months of intense investigation has brought the Grand Jury to the conclusion that millions of dollars in public funds have not been accounted for by the TLHCD. Moreover, the preponderance of evidence presented to the Grand Jury indicates that over the same period of time, the TLHCD withheld information pertaining to the expenditure of public funds to which the District's constituents were entitled.

RECOMMENDATIONS:

- R1. That the TLHCD Board of Directors, without delay, undergo training in aspects of governmental transparency and disclosure requirements pertaining to the expenditure of public funds.
- R2. That the TLHCD Board of Directors, without delay, release to the general public a full disclosure of the manner in which proceeds from the sale of \$85 Million in bonds were expended from September of 2007 through December of 2015.
- R3. That the current Bond Oversight Committee be disbanded and a new Committee seated, fully enabled to disclose the actual/present financial circumstances surrounding the Phase I Project.

REQUIRED RESPONSES:

- 1. Tulare Local Health Care District Board of Directors

Disclaimer

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Section 924.2 and 929).

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May 31, 2016

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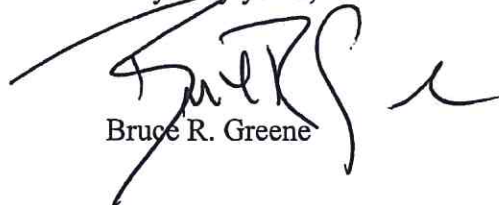
Tulare County Grand Jury
5963 South Mooney Boulevard
Visalia, CA 93277

Re: Tulare Local Healthcare District Final Report

Ladies/Gentlemen:

Enclosed you will find the Response of Tulare Local Healthcare District to the Final Report of the Grand Jury which was released on March 24, 2016.

Very truly yours,



Bruce R. Greene

Encl.

cc: Via Hand Delivery (w/encl.)
Hon. Bret Hillman
County Civic Center Room 303
221 South Mooney Blvd
Visalia, CA 93291

Via Hand Delivery (w/encl.)
Tulare County Board
of Supervisors
2800 W. Burrel Ave
Visalia, CA 93291

Atlanta Chicago Cincinnati Cleveland Columbus Costa Mesa Denver
Houston Los Angeles New York Orlando Philadelphia Seattle Washington, DC

**RESPONSE OF TULARE REGIONAL MEDICAL CENTER TO 2015-2016
TULARE COUNTY GRAND JURY FINAL REPORT**

“SINS OF THE FATHERS”

“The son will not bear the punishment for the father’s iniquity, nor will the father bear the punishment for the son’s iniquity; the righteousness of the righteous will be upon himself, and the wickedness of the wicked will be upon himself.” Ezekiel 18:20

This Report is long on conclusions but short on facts. It is grossly incomplete, misleading and is based in part upon speculation and opinion. Moreover, the very fact that this grand jury would entitle a report “Tower of Shame,” and by its own admission release the Report earlier than the customary time, knowing that this would excite the media and inflame the general public, disappointedly shows unmitigated bias against TRMC. By its own admission, the Grand Jury did not look at the four independent examinations performed and certified by two independent auditing firms covering the entire course of the bond expenditure that found no wrongdoing. Another example is that members of this Grand Jury have publicly commented about their work with a clear bias against the healthcare district. Furthermore, it should be noted that since the release of the Report, the Grand Jury has served additional subpoenas on two of the Current Board members, one of which requires production of a voluminous amount of financial records relating to the bond expenditures. If indeed the Report was “final,” then why is the Grand Jury seeking additional information; and if the Grand Jury believes that it did not have sufficient information on the bond expenditures before, then why did it issue such a damning “final” report when its investigation was obviously incomplete? A report issued prematurely is inappropriate at best.

More important is the fact that this Report purports to blame the Current Board for the misdeeds of the Prior Boards. This is manifestly unfair by anyone’s standards. The current Board, consisting of Sherrie Bell, Parmod Kumar, M.D., Richard Torrez, Linda Wilbourn and Laura Gadke (the “Current Board”) has only been seated since May 2015. For 8 of the 10 years during which bond funds were expended, there were at most two, and in some cases one member of the Current Board seated. When the Current Board was seated, there were no undisbursed bond funds. The last bond funds were expended in 2014, and even as of December 2013 (when 3 of the members of the Current Board were seated), less than 5% of the bond funds remained undisbursed.

So if there is in fact blame to be imposed on anyone, it should be imposed where it is justly deserved – on the Prior Boards.

Even if correct, the Grand Jury is over two years behind in its findings. The Current Board has long since corrected the many deficiencies of Prior Boards. The Current Board took the Hospital from the verge of bankruptcy in late 2013 to its present position of financial strength in only two years. It has already rectified many problems which it inherited, including ridding the District of unfavorable contracts, resolving long standing problems with its dysfunctional and destructive medical executive committee, dramatically progressing with the Tower construction, and developing a viable plan to raise funds to complete the Tower Project.

The issuance of this Report, which if nothing else purports to attribute the shortcomings of the Prior Boards to the Current Board, is irresponsible, and is jeopardizing all of the good efforts of

the Current Board to make the Hospital one of the best in the nation. It is misleading to the public in that it attributes the problems that have occurred in the past by people and systems that are no longer at the Hospital to the Current Board. The Report completely fails to recognize and acknowledge the dramatic turnaround that has occurred at the Hospital in operations (24 months of consecutive net profits and a return last year which was greater than the returns in the past 12 years and three times the national average) and with the construction project (millions saved in soft costs, exterior of the building enclosed, etc.).

RESPONSE TO FINDINGS

Finding No. 1 The TLHCD routinely withheld pertinent information and financial data from the Bond Oversight Committee, thus rendering the Committee incapable of performing its oversight function.

Response: The Current Board has insufficient information to address the Grand Jury's allegations regarding the actions (or failures to act) of any Prior Boards. There has been no withholding of pertinent information or financial data by the Current Board from the Board Oversight Committee, routinely or otherwise. However, the minutes of the Prior Board meetings do show that copies of reports regarding bond fund expenditures prepared by two independent auditors were approved in open session meetings, and provided to the Bond Oversight Committee. On December 9, 2015, a representative of one of the auditors made a presentation at an open board meeting discussing the final report (see Exhibit A). A copy of the entire final report including every single invoice was set out at that meeting for public viewing. Further, the records show that the Bond Oversight Committee met 48 times, being an average of once every two months, and there is absolutely no indication in its minutes that the Prior Boards were not forthcoming with information (with perhaps the exception of a 4 month period at the end of 2012 when there was some disruption in Hospital management). To the contrary, the minutes show that the bond audit reports were submitted to the Board Oversight Committee, including a full presentation by a representative of the auditor on July 15, 2013 (See Exhibits B1 – B4). If, as the Grand Jury has found, the Committee was incapable of performing its oversight function, that was not the result of any actions or inactions of the Current Board.

Finding No. 2 The Bond Oversight Committee failed to exercise due diligence in following up on requests for detailed financial information which was necessary for the independent oversight of the expenditure of bond funds.

Response: The Current Board has insufficient information to address the Grand Jury's allegations regarding the actions (or failures to act) of any Prior Boards. If, as the Grand Jury found, the Bond Oversight Committee failed to exercise due diligence, it was due to no act or failure to act of the Current Board.

Finding No. 3 The 2005 voter authorized \$85 Million in bonds has been completely expended. At the time this report was drafted, TLHCD had only an uncompleted and non-functional structure to show for it.

Response: This finding is correct insofar as it states that the \$85 million in bonds which was authorized by the voters in 2005 has been completely expended. In fact, the funds were substantially expended by December 2013, which was well before the Current Board was seated, and had been completely expended by September 2014. It is also correct that the Tower Project

has not been completed. However, it is misleading to state that TRMC only has a “nonfunctional structure to show for it” [the expenditure of \$85 million in bond funds]. In fact, a substantial portion of the Tower Project has been completed, and will be functional if and when additional funds are made available to complete the construction, as was always formally acknowledged in the original bond documents. Has the Grand Jury reviewed those? It does not appear so.

Finding No. 4 It appears that TLHCD either intentionally or unintentionally failed to comprehend the issue of the cost differential between the \$85 Million in bond authorization and the total project cost estimated to be well in excess of \$100 Million. It further appears that TLHCD attempted to justify their position by unsupported estimates of reserves and projection of future revenues.

Response: The Current Board has insufficient information to address the Grand Jury’s allegations regarding the actions (or failures to act) of any Prior Boards, especially as this related to matters that are nearly 10 years old. However, it is perfectly clear that at the time of the initial bond issuance in 2007, it was known (and fully disclosed in the bond documents) that the cost of the Tower Project would be \$120,000,000, and that the shortfall had to be funded by other means, which specifically included the need for additional bond offerings. (See Exhibit C).

Further, over the years, the Bond Oversight Committee routinely discussed the cost of the Tower Project and the amount of \$120,000,000 was almost always referred to as the estimated cost. (See Exhibits D1 - D5.)

The Current Board cannot say one way or another if any Prior Board “attempted to justify their position by unsupported estimates of resources and projection of future revenues.” The Current Board certainly made no attempts to justify the position of any Prior Boards. However, it can be noted that one of the most outspoken critics of the handling of the bond funds was actually on Prior Boards (from December 2002 through November 2008), which includes the time when the bonds were authorized and issued. If anyone should be answering to a Grand Jury, or to the community, it is her as well as the other members of the Prior Boards at that time.

Finding No. 5 Strict and complex statutes regarding public disclosure of information pertaining to the expenditure of funds proceeding from the issuance of bonds, appear to have been routinely circumvented by the TLHCD Board of Directors.

Response: The Current Board has insufficient information to address the Grand Jury’s allegations regarding the actions (or failures to act) of any Prior Boards. However, the Current Board unequivocally denies that it has circumvented any statutes regarding public disclosure or otherwise. In fact the Current Board has a strict policy about responding promptly to any requests for information by the Committee or any other legal requests for information. Here again, the Grand Jury is superimposing alleged failures of the past on the Current Board.

Finding No. 6 Minutes of TLHCD meetings from January 2010 through December of 2015 fail to disclose the dire situation into which the Phase I project had devolved, thus leaving TLHCD taxpayers without direct access to information to which they were entitled.

Response: The Current Board has insufficient information to address the Grand Jury’s allegations regarding the actions (or failures to act) of any Prior Boards. By the time that the Current Board was seated in May 2015, the problems with the Tower Project were widely known to the general public and were in fact addressed many times at open Board meetings.

Finding No. 7 The turmoil surrounding the personnel turnover at the top of the TLHCD management structure served to distract Board Members' attention from the Phase I Project, thus leading to additional delays and severance agreements in the hundreds of thousands of dollars.

Response: This is nothing but speculation and conjecture and not fact, which is precisely what a Grand Jury should not be doing. (See the Grand Jury's own "Disclaimer" at the end of the Report.) While it is indisputable that there was significant turnover of Prior Board members and administrative personnel over the past 10 years, here again all this occurred prior to the seating of the Current Board. In fact, the Current Board has created an unprecedented environment of stability over the past two years. The Current Board has insufficient information to address the Grand Jury's allegations regarding the actions (or failures to act) of any Prior Boards. However, there is no necessary correlation between the turnover of the Prior Board members and the ability of the Prior Boards to focus on the Tower Project, nor is there any reason to believe that such turnover led to delays in construction of the Tower Project. Moreover, there is no necessary correlation between such turnover and any severance agreements, or the impact, if any, of those severance agreements on the Tower Project.

Finding No. 8 The court ordered settlement represents 9.29 percent of the \$85 Million in proceeds from the sale of bonds and required funds needed to complete Phase I to be allocated to a purpose other than construction.

Response: This finding is likewise wholly inaccurate. First, there was no court-ordered settlement. In fact, the settlement was a voluntary agreement between the District and Harris. Second, none of the settlement amount was allocated for purposes other than construction. In fact, the entire settlement was for work on the Tower Project which had been completed by Harris. Further, part of the settlement involved Harris waiving \$9.7 Million of its claims, and the District retained the right to pursue claims against the prior architect and subcontractors. The District has been actively pursuing those claims and has already collected \$1.9 Million.

RESPONSE TO RECOMMENDATIONS

Recommendation 1: That the TLHCD Board of Directors, without delay, undergo training in aspects of governmental transparency and disclosure requirements pertaining to the expenditure of public funds.

Response: The recommendation will not be implemented because it is not warranted and/or is not reasonable. There is no legitimate reason to impute any failings or shortcomings of Prior Boards to the Current Board. The Current Board is well aware of its responsibilities on matters of governmental transparency and disclosure requirements pertaining to the expenditure of public funds. The Current Board undergoes annual training regarding its responsibilities under all relevant statutes.

Recommendation 2: That the TLHCD Board of Directors, without delay, release to the general public a full disclosure of the manner in which proceeds from the sale of \$85 Million in bonds were expended from September of 2007 through December of 2015.

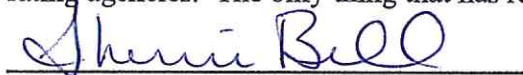
Response: The recommendation has already been implemented. Copies of the bond reports, which were prepared by two independent outside auditing firms, have been provided to the Bond Oversight Committee and to any member of the public who has requested same, and copies of the bond reports will be provided in the future to any member of the public who requests same. The final report was made available for public review at an open meeting of the Board held on December 9, 2015, at which a representative of the auditor made a presentation discussing the report. (See Exhibit A).

Recommendation 3: That the current Bond Oversight Committee be disbanded and a new Committee seated, fully enabled to disclose the actual/present financial circumstances surrounding the Phase I Project.

Response: The recommendation, insofar as it involves disbanding the current Board Oversight Committee, has not been implemented, but it will be voted on at the next regular Board meeting to be held in June 2016. The recommendation, insofar as it involves seating a new Committee, will not be implemented because it is not warranted and/or is not reasonable. There is no need for a Committee to oversee the disbursement of the original \$85 Million bond funds because all of the bond funds were disbursed by September 2014 and four independent examinations of the entire bond disbursement period have already been conducted and certified by two outside professional auditing firms.

CONCLUSION

It is clear that this Grand Jury acted at best unprofessionally in its approach, and at worst was deliberately biased, and as a result the Report that it issued was a disservice to the community. The issues that it raised in the Report are years old, and have been addressed multiple times by professional independent outside reviewers. Most importantly, in the past 28 months, the Hospital has shown a dramatic and remarkable turnaround in its operations, governance, and the construction project that this Report addresses. The failure here is on the part of this unqualified and overzealous Grand Jury in failing to see the dramatic positive transformational changes that have occurred in the past 28 months under the governance of the Current Board and its management team – changes recognized by several outside professional auditors and national rating agencies. The only thing that has remained the same at the Hospital is the address.



Sherrie Bell, Chair of the Board



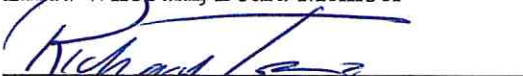
Parmod Kumar, M.D., Board Member



Laura Gadke, Board Member



Linda Wilbourn, Board Member



Richard Torres, Board Member

May 26, 2016