

# Cut the check

September 02, 2009 12:31:00 AM - By Howard Yune/Appeal-Democrat

Sutter County's auditor-controller got firm orders Tuesday night to stop resisting the settlement to a long-simmering tax dispute with Fremont-Rideout Health Group. But the final chapter in the struggle remains unclear. A 4-1 vote by the Board of Supervisors — with only Stan Cleveland dissenting — ordered Robert Stark to release a warrant to pay Fremont-Rideout \$588,024 to drop the hospital group's claim it was wrongly charged property tax in Yuba City for three years. Despite the decision, Stark declared he would not authorize the payout unless the county either documents its reported closed-door approval of the pact in May — or votes on it again in public.

Minutes after the decision, Stark gave no apology for holding out against the settlement. "Public officials need to be held accountable, and that's a function of my office," he said. The board's ultimatum was meant to end a tug-of-war between Sutter County and Fremont-Rideout, which in February filed a claim seeking the return of \$885,024 it paid in property taxes for its Yuba City site from 2006 to 2008.

While California hospitals generally are exempt from property taxes, the county Assessor's Office collected tax from Fremont-Rideout because it did not re-register its ownership deed in Yuba City following its creation in the 2005 merger of Fremont Medical Center and Rideout Memorial Hospital. But Fremont-Rideout directors argued it inherited the tax break from the previous company and should not have been taxed. Board chairman Jim Whiteaker signed a compromise with Fremont-Rideout for just under two-thirds of the disputed funds, based on supervisors' reported agreement to the deal in a closed session May 19. But Stark resisted the release of the funds, saying Whiteaker has no power to sign an agreement without documenting the board's approval.

Minutes from the May meeting indicated supervisors discussed the tax dispute, but that Whiteaker announced no decision had been made. "The board took no public action to ratify this agreement or report it had ever been voted on," Stark told supervisors. "I've seen no documentation that the board authorized (Whiteaker) to sign the agreement." "I don't sign blank checks; I don't sign blank documents," Whiteaker replied, asserting state open-meeting law allows the board to craft settlements in closed session and publicize them only after signing. "I was given the authority to settle a claim and that's what I did."

Cutting a deal with Fremont-Rideout also cut off the risk of losing a lawsuit over the tax money, said Supervisor James Gallagher. "These are not the kinds of cases you want to take to trial," he said. "It's a flip of a coin, and you pay your attorneys hoping that coin falls in your favor. We settled this for 63 cents on the dollar; you talk to any attorney and that's a good settlement, in my mind." Fremont-Rideout's tax fight has spawned another dispute within the county, one that will reach a courtroom on Thursday.

Assessor Michael Strong, who denied the hospital group's tax claim, will appear in Superior Court at 3 p.m. seeking to force the county to pay for his own attorney, saying County Counsel Ronald Erickson's support for the settlement leaves him unable to represent Strong as well. Supervisors vetoed that request on Aug. 18