

Mariposa County
GRAND JURY
2016-2017



EYES, EARS, AND VOICE FOR MARIPOSA COUNTY CITIZENS

FINAL REPORT

Mariposa County Grand Jury Final Report 2016-2017

Pursuant to California Penal Code §925 and §933(a), ... "each Grand Jury shall submit to the presiding Judge of the Superior Court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year."

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THE 2016-2017 GRAND JURY

Charlie McCord, Foreperson (July '16 – December '16)

Jaye Howes, Foreperson (January '17 – June '17)

Archie Dixon (Alternate added March '17)

William Erb

Robert Fox

John Grimes

Tori Hall (Alternate added August '16)

Pamela Hawkins

Pamela Huntington

Marilyn Johnson

John McCamman

William Rust

May 22, 2017

Honorable Michael A. Fagalde, Assistant Presiding Judge
Mariposa County Superior Court
PO Box 28
Mariposa, California 95338

Dear Judge Fagalde,

As members of the 2016-2017 Grand Jury, we would like to thank you for the opportunity to serve the citizens of Mariposa County. It has been a privilege and an honor to be the eyes, ears, and voice of the community in which we live, and we look forward, as individuals, to the continuation of this valued and important effort.

Over the course of the term, we were served by two consecutive forepersons, two alternates, and nine permanent members, all of which comprised our eleven-jury panel. All served with dignity and respect for the position for which they were appointed.

The 2016-2017 Grand Jury received twelve public complaints, three of which were determined to be under our jurisdiction and worthy of investigation. Of the remaining nine complaints, eight were reviewed and determined not under our purview, not substantial enough to warrant further investigation, or under the court's jurisdiction. One complaint was referred to the 2017-2018 Grand Jury.

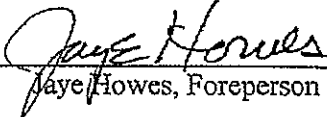
As required by law, the 2016-2017 Grand Jury inspected State and local correctional facilities within the County: The Adult Detention Facility, the Juvenile Detention Facility, and the Mt. Bullion Conservation Camp #39. Additionally, the members of Jury conducted inquiries into the Board of Supervisors and Grand Jury audit, the qualifications of the Treasurer-Tax Collector position, and the Tourism Bureau and Business Improvement District. The Continuity Committee also conducted follow-up inquiries for the following: the Mariposa County Landfill, Yosemite West Community Services District, the Mariposa County Technical Services Department, and the Mariposa Public Utility District.

During the first few meetings, our members updated the Grand Jury Policies and Procedures manual for the current and future juries. Subsequent meetings involved consultation with County department heads and members of the Mariposa Board of Supervisors. All invitees were professional in their interactions and provided insightful information that was helpful to our understanding of the organization and operation of the County.

The members of this Grand Jury would like to thank past jurors who began the work from which we were able to glean vital information that enabled us to contribute to future jurors in their pursuit of understanding of the business of county governance.

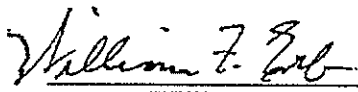
Lastly, we would like to congratulate you on your wisdom in choosing members for the Jury. We have all felt the camaraderie we are sure you anticipated and have enjoyed our time serving our community. Your guidance and support, including that of your staff, has been greatly appreciated throughout our tenure as members of the 2016-2017 Grand Jury.

Respectfully Submitted,



Jaye Howes, Foreperson


Robert Fox

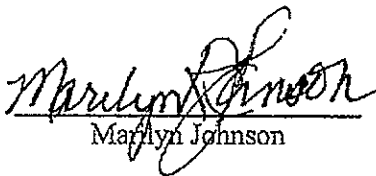

John Grimes



William Erb

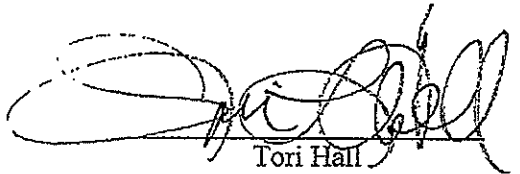

Pamela Hawkins

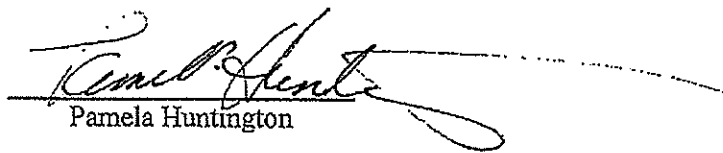

John McCamman


William Rust


Marilyn Johnson


Archie Dixon


Tori Hall


Pamela Huntington

THE GRAND JURY'S EXECUTIVE STATEMENT FOR 2016-2017

In California, the grand jury is an instrumentality of the superior court, subject to the court's general supervision. Empowered by the judicial system, the grand jury is a fact-finding body that develops meaningful solutions to a wide range of government problems, thereby facilitating positive change in the county.

Underlying Philosophy

"Never doubt that a small group of thoughtful people could change the world. Indeed, it's the only thing that ever has..."

Margaret Mead

Functions of the Grand Jury

The California Grand Jury has three primary functions: to weigh criminal charges and determine if indictments should be returned, to weigh evidence of misconduct against public officials and determine whether to present formal accusations seeking their removal from office, and to act as the public's "watchdog" by investigating and reporting on the affairs of local government. Of these, the watchdog role is the one most frequently undertaken by county grand juries.

Watchdog Function

Under the function of county 'watchdog,' regular (civil) grand juries are charged with investigating and issuing reports about local government. The objective of these investigations is to improve the efficiency and effectiveness of local government. Additionally, these investigations are designed to promote government accountability at the local level.

The above tasks are accomplished by monitoring the performance of the county, districts, and other public entities within the county.

The 2016-2017 Grand Jury of Mariposa County conducted research; interviewed public officials, employees, experts, and citizens; and toured and/or inspected public facilities. The members of this Jury present the following reports that contain findings and recommendations that have the real potential of increasing the efficiency and effectiveness of government services.

GUEST SPEAKERS

The members of the 2016-2017 Grand Jury wish to thank those department heads, elected officials and others who took time out of their busy schedules to meet with members of the Jury. Sharing their time and knowledge was greatly appreciated and valued.

Mariposa County Sheriff and Interim Fire Chief

Mariposa County District Attorney

Mariposa County Counsel*

Mariposa County Public Works Director

Mariposa County Health Officer

Mariposa County Probation Officer

Mariposa County Auditor

Mariposa County Administrative Officer

Mariposa County Treasurer-Tax Collector, and Registrar of Voters

Mariposa County Supervisor serving District 1

Mariposa County Supervisor serving District 2

Mariposa County Supervisor serving District 3

Mariposa County Supervisor serving District 4

Mariposa County Supervisor serving District 5 – Serving the District prior to 2017

Mariposa County Supervisor serving District 5 – Serving the District beginning 2017

**See Appendix A: December 15, 2016 Letter to the 2016-2017 Mariposa County Grand Jury*

REQUIRED RESPONSES

California Penal Code §933(c) requires that no later than 90-days after the Grand Jury submits its final report on the operations of any public agency or department subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body.

Required to Respond	Corresponding Report
Mariposa County Board of Supervisors	Mariposa County Adult Detention Facility
Mariposa County Sheriff / Interim Fire Chief	Mariposa County Adult Detention Facility
Mariposa County Board of Supervisors	Mariposa County Board of Supervisors and Grand Jury Outside Audit
Mariposa County Auditor	Mariposa County Board of Supervisors and Grand Jury Outside Audit
Mariposa County Board of Supervisors	Mariposa County Treasurer - Tax Collector
Mariposa County Board of Supervisors	Mariposa County Tourism Bureau and Business Improvement District
Mariposa County Board of Supervisors	Mariposa County Technical Services Department
Mariposa County Board of Supervisors	Mariposa County Landfill
Mariposa County Public Works Director	Mariposa County Landfill
Mariposa County Board of Supervisors	Yosemite West Waste Water Treatment Facility

INVITED RESPONSES

While not under the requirement of California Penal Code §933(c), the Grand Jury of 2016-2017 respectfully requests comment to the Presiding Judge of the Mariposa County Superior Court on the findings and recommendations pertaining to matters under the control of the governing body.

Invited to Respond	Corresponding Report
<u>Mariposa County Administrative Officer</u>	<u>Mariposa County Tourism Bureau and Business Improvement District</u>
<u>Mariposa County Technical Services Director</u>	<u>Mariposa County Technical Services Department</u>
<u>Mariposa County Public Works Director</u>	<u>Yosemite West Waste Water Treatment Facility</u>
<u>Yosemite Mariposa Tourism Bureau</u>	<u>Mariposa County Tourism Bureau and Business Improvement District</u>

MARIPOSA COUNTY DETENTION FACILITIES

Report

California Penal Code §919(b) requires that each year the Grand Jury is to inquire into the condition and management of the detention facilities within its jurisdiction. Mariposa County has three detention facilities subject to review by the Grand Jury:

- Mariposa County Adult Detention Facility
- Mariposa County Juvenile Detention Facility
- Mount Bullion Conservation Camp - California Department of Corrections and Rehabilitation

MARIPOSA COUNTY ADULT DETENTION FACILITY

Introduction

The facility was constructed and opened in 1995 with a maximum capacity of fifty-eight beds (inmates). Capacity can be less depending on the need to segregate certain inmate populations, such as by gender or gang affiliation. Accommodations are made for inmates who identify with certain sexual preferences as well. Currently eight beds are designated for females with the remainder designated for males. The facility is designated as a Type II Jail, which pertains to a detention facility for both pretrial and post-conviction inmates.

Approach

Members of the Jury conducted an on-site inspection of the facility on December 12, 2016. Members were escorted through the facility by the on-duty Jail Lieutenant. Members of the jury also reviewed the *Jail Inspection Handbook for Grand Jurors* and the most recent Board of State and Community Corrections of California (BSCC) Inspection Report of the Adult Detention facility dated March 26, 2015. The facility is inspected by the BSCC every other year.

Findings

F-1 Facility Inspection

- In addition to the number of beds mentioned above, inmates have a multipurpose room that serves as the library, non-denominational church, and as a place for inmates to communicate with the Courts via a closed-circuit television. Meals are prepared in a fully equipped kitchen on-site by the Trinity Services Group in accordance with State Title 24 and Title 15 provisions. Meals are estimated to cost the County \$1.98 - \$2.12 per meal, per inmate.

- Fire codes are followed and are adhered to according to California Title 19 Fire Codes.
- As the Grand Jury was able to inspect all interior and exterior areas within the jail, it is noted that the facility appeared clean, sanitary, and without any unusual odors. The entire facility appears well-ventilated and with adequate area for the inmates to move around and have space to read, talk, and communicate with family. The correctional officers monitor the cell 'pods' by sight, closed circuit cameras, and an intercom system. The monitoring is facilitated within a 360 degree, elevated viewing site.
- Telephone communication to outside family, friends, and attorney is available to the inmate by self-paid video-telephone cameras, which the inmate is made aware of upon entering the facility. There is also a private, secured room for attorney/client communications.
- Approximately ten percent of the inmate population is gang affiliated, and many inmates lack a high school diploma or GED. Inmates are given the opportunity to earn their GED. The educational approach is one of pen and paper until progress has been demonstrated, which may lead to gaining access to computer based programs.
- For security reasons, routine maintenance of the facility is performed by a Sheriff's Department employee.

F-2 Staffing

- According to the on-duty Lieutenant, the facility is operating at adequate staffing levels for the current inmate/staff ratio.

F-3 Medical

- A registered nurse is on-site on an average of eight hours per day. A medical doctor can be utilized for medical emergencies through the JC Fremont Hospital facility.
- The dispensing of prescribed and/or required medications is provided by the nurse on duty with medications reviews by a physician from JC Fremont Hospital.

Recommendations

The Mariposa County Adult Detention Center budget be appropriately reviewed for an increase in funds within the following areas:

R-1 Facility Inspection

- Overseers of the facility should reserve funds to replace antiquated generators and major machinery, as well as the need for facility expansion due to an increase in the inmate population.

R-2 Staffing

- Overseers of staffing concerns should continue to monitor the staffing level and need for additional funds in proportion to any increase in inmate population.

R-3 Medical

- Overseers of medical concerns should review the need to increase funds based upon an increase in medical and mental health diagnoses and longer sentencing stays for inmates.

Required to Respond

Board of Supervisors

Mariposa County Sheriff / Interim Fire Chief

Invited to Respond

No one at this time.

MARIPOSA JUVENILE DETENTION FACILITY

Introduction

The Mariposa County Juvenile facility is a two room/four bed facility with an adjoining group meeting room, kitchen area and storage area. The facility offers a fenced, recreational area for exercise.

Juveniles eligible for the facility can be held for a maximum of ninety-six hours. When youths are held at the facility, the staff attempt to keep them out of their rooms as much as possible with interaction in the Group Room or outside in the Recreational Area. They are monitored on an inside camera or in person, continuously, while in custody.

A minimum of two staff members are on duty at all times if a juvenile is in custody.

Mariposa County Probation processes youth arrests in the 'best interest' of the child, and officials often handle children under thirteen years of age in a more informal manner. Currently, there are programs within the Mariposa schools and with probation officers to intervene with juveniles before more serious crimes are committed.

According to the officer conducting the tour, the Mariposa County Juvenile Detention Facility is not in continuous use; it is more difficult to staff the facility with qualified people on an 'on call' basis.

Approach

Two members of the Jury did a sight inspection of the Mariposa Juvenile Detention Facility on February 3, 2017. The "Detention Facility Inspection Form" was used as a guide to evaluate the facility and interview the Deputy Probation Officer III that was assigned to escort the Grand Jury throughout the facility. There were no juveniles in custody at the time of the inspection. Staff advised jury members that juvenile crime has declined significantly; therefore, fewer youth are being incarcerated.

Findings

- F-1 The facility is routinely inspected by the State of California. The facility has passed all recent inspections without incident. Additionally, fire/emergency drills are reviewed at all staff meetings.
- F-2 Currently, one full-time Probation Officer is employed by the facility, and there is a current search for an additional officer. The addition of the additional officer would allow juveniles to be housed in Mariposa rather than sent to Madera. Without the additional officer, a 24-hour monitoring of juveniles cannot take place. All other staffing issues, as indicated on the inspection form, were satisfactory.
- F-3 All areas of the facility were in excellent condition: walls (inside and out), beds, kitchen area, toilet/shower area, and outside area. A phone is made available to juveniles, as well as clean clothing, free postage for correspondence, and space for juveniles to receive visitors.
- F-4 All policies in regards to orientation of juveniles are being adhered to, as demonstrated by the recordkeeping of the Deputy Probation Officer III. There has not been an incident of a disciplinary nature or a grievance within the last five years.
- F-5 Meals for juveniles are facilitated via the Mariposa Adult Detention Facility—the onsite kitchen is not equipped to store or prepare hot meals.
- F-6 The acting Truancy Officer is present daily at the Mariposa High School campus. Schoolwork can be requested and facilitated using the Truancy Officer. No other educational programs are offered to juveniles —typically, this is due to juveniles spending less than 24-hours at the current facility prior to being sent to Madera County if longer stays are warranted.

Recommendations

No recommendations based upon the findings of this inquiry.

Required to Respond

No one at this time.

Invited to Respond

No one at this time.

MOUNT BULLION CONSERVATION CAMP

Introduction

The Mt. Bullion Conservation Camp is a minimum-security facility operated by California Department of Corrections and Rehabilitation. The camp located in Mariposa County is one of forty conservation camps throughout the State.

Approach

Several members of the Grand Jury informally toured the facility. Cohesive notes were unavailable for review at the time this report was written.

Findings

All aspects of the facility were in good standing based upon the visual inspection of the visiting members of the Jury. Due to the unavailability of notes, it cannot be determined if there were deficits regarding any element of the Detention Facility Inspection Form.

Recommendations

No recommendations based upon the findings of this inquiry.

Required to Respond

No one at this time.

Invited to Respond

No one at this time.

MARIPOSA COUNTY BOARD OF SUPERVISORS AND GRAND JURY OUTSIDE AUDIT Report

Introduction

The County of Mariposa is required to do a single audit of its financial activities each year. In Mariposa County, the audit is a joint Grand Jury and Board of Supervisor audit engaging an outside auditor. The same firm has been doing that audit for fifteen years to date, and eighteen years by the end of their existing contract. Such a long-term engagement could result in the perception that there is “too cozy” a relationship between the outside auditor and the County. The Grand Jury addressed that concern.

Background

The federal Single Audit Act of 1984 requires that state and local public agencies, which receive federal funds from a variety of sources, perform a single, jurisdiction-wide specific audit. The objective is to save time and expense on the part of state and local entities, while giving the federal agencies involved a more consistent source of information.

As with most entities spending in excess of \$750,000 in federal funds, the County of Mariposa is required to comply with the federal requirements for the development of financial statements and audits, including preparation of the annual single audit. This requirement is codified in California in Government Code §25250. The Board of Supervisors can address this audit obligation in conjunction with the local Grand Jury and jointly hire the independent auditor to perform functions mandated in both Government Code §25250 for the Board and Penal Code §925 for the Grand Jury.

Smith and Newell, Certified Public Accountants have prepared the financial statements of the county and perform independent audit services as required by the Grand Jury or the Board of Supervisors. Based on records the Grand Jury could locate, Smith and Newell have been providing these independent audit services and preparation of the annual financial statements since 2002 for both the Grand Jury and the Board.

In May, 2016, the Mariposa County Board of Supervisors and the Mariposa Grand Jury renewed their joint agreement with Smith and Newell, CPAs to prepare the annual financial statements and perform various audits for four years, including fiscal years 2015-16 through 2018-19. The total cost over four years of the agreement is anticipated to be \$234,100.

In 2012, the state legislature passed and the governor signed AB 1345 which added §12410.6 (b) to the Government Code regarding auditor rotation requirements of public accounting firms providing audit services to local public agencies. During the legislative debate regarding this bill, the author indicated that the legislation was developed in response to issues identified in the City of Bell, Modoc County, and in other public entity

situations where the lead or coordinating audit partner had “too cozy” a relationship with the entity being audited, calling into question the independence of the audit.

It is not the intention of the Grand Jury to call into question the independence of the outside auditor or to question any audit findings. However, repeated audits by the same auditor for such an extended period of time — eighteen years — can create the perception that the auditor is not independent, that any structural mistakes in the financial statements of the County won't be reviewed with a critical eye, and that only a limited number of the same people will review the documents and schedules that are derived in the audit process.

The auditor rotation requirements adopted by the state require that no local agency will “employ a public accounting firm...if the lead audit partner or coordinating partner...has performed audit services for that local agency for six consecutive fiscal years.” The legislation goes on to provide that the six years will begin in the 2013-14 fiscal year. The County is still in compliance with that law.

There are a number of ways in which a firm can address these auditor rotation requirements, including reassigning lead, coordinating or review roles, or obtaining a waiver from the State Controller. The concern that an auditor rotation requirement is designed to address can also be resolved by hiring a different firm with different audit partners.

The downside of hiring a different independent auditor may include: required reporting changes based on the best professional judgement of the retained auditor; perhaps some additional expense in order for the newly hired outside auditor to review the existing structure of accounts and accountability standards; additional staff training and staff time to orient a new firm; and other possible implications.

Approach

Members of the Jury obtained copies of contracts and board reports from the County Auditor and the Clerk of the Board for review. These reports covered the initial retention of the existing outside auditor and the number of times the outside auditor's contract has been renewed. In addition, the members reviewed Government Codes §25250 and §12410.6(b).

Findings

- F-1 Smith and Newell, CPAs have been providing independent outside audit services and financial statement services to the County and Grand Jury since 2002 — fifteen years to date and eighteen years when the current agreement ends with the audit of the 2018-19 fiscal year.
- F-2 The Grand Jury has no reason to question the independence or capability of Smith and Newell, CPAs as the County's and the Grand Jury's independent auditor.

- F-3 The state has determined that auditor rotation requirements should be put in place to better ensure auditor independence. The statute provides options for encouraging that independence.
- F-4 The participation of the Grand Jury in the joint audit process is beneficial for both the Jury and the County in that it ensures coordination and cooperation in those items specified for audit.

Recommendations

- R-1 The Board of Supervisors direct that in preparation for the audit of FY2019-20, a request for proposals be developed by the Auditor-Controller of the County, the then current Grand Jury, and the County Administrative Officer to obtain public accountancy services.
- R-2 That Smith and Newell, CPAs not be eligible to bid on that RFP, even if they can technically meet the auditor rotation requirements of Government Code §12410.6 (b).
- R-3 That the Grand Jury designate several of its members in upcoming years to fully participate in the planning, execution and receipt of the financial statements of the County, the independent audit, and any preliminary or final management findings.

Required to Respond

Mariposa County Board of Supervisors

Mariposa County Auditor

Invited to Respond

No one at this time.

MARIPOSA COUNTY TREASURER – TAX COLLECTOR

Report

Introduction

During our meet and greet with the Mariposa County Treasurer-Tax Collector, a Grand Juror asked what qualifications the current incumbent had that would insure that the public funds — \$47 million dollars under the control of the treasurer—were appropriately invested. While the current incumbent answered that question to the satisfaction of the Jury based on both his education and experience, the Jury determined that the County has not adopted by ordinance the standards set out in state law, and that they must do so for those standards to be applicable for anyone appointed to or elected to that office.

Background

Following several investment issues in California counties and cities, the State Legislature determined to add sections to the Government Code (§§27000.6 - 27000.9) calling for standards in the office of county treasurer, county treasurer-tax collector, or county tax collector, and mandating continuing education requirements for incumbents in that position.

Government Code §27000.6 provides that the standards will only be applicable in those counties that adopt by ordinance provisions of §27000.7, §27000.8 and §27000.9. While many counties in the State have adopted such an ordinance, Mariposa County has not.

Government Code §27000.7 provides that no person shall be eligible for election or appointment to the office unless they meet at least one of the following paraphrased criteria:

- 1) Have served in a senior financial management position in a county, city or other public agency... for a period of not less than three years;
- 2) Valid college degree... with at least sixteen college semester units in accounting, auditing or finance ...;
- 3) ... a certified public accountant;
- 4) ... a designated chartered financial analyst;
- 5) ... a designated certified cash manager.

The legislature subsequently added that §27000.7 was effective for those appointed or elected after 1998.

Government Code §27000.8 provides for continuing education requirements for elected county treasurers, mandating a minimum of forty-eight hours of continuing education each four-year term in certain specified courses of study.

Government Code §27000.9 provides for continuing education requirements for appointed county treasurers, mandating a minimum of twenty-four hours of study in each two-year period in certain specified courses.

Approach

Jury members asked the Treasurer-Tax Collector for the Government Code sections outlining the statutory standards and reviewed the County Code. The Jury noted that the County has adopted the standards outlined in State statute applicable to the County Auditor-Controller position, but it has not applied the same logic for the Treasurer-Tax Collector.

Findings

- F-1 Government Code §§27000.6 - 27000.9 establish reasonable qualifications and continuing education requirements for the important position of Treasurer-Tax Collector for California's fifty-eight counties.
- F-2 Mariposa's Treasurer-Tax Collector invests public funds on behalf of the county and the Mariposa County School District in a limited selection of investments, and should have the requisite knowledge, skills and abilities to ensure a secure investment with a reasonable rate of return.
- F-3 The Board of Supervisors can ensure that professional standards and continuing education requirements are applied to the position of Treasurer-Tax Collector by adopting an ordinance as provided in Government Code §27000.6.

Recommendations

- R-1 The Board of Supervisors should adopt an ordinance applying standards for the position of Treasurer-Tax Collector by either appointment or election, and providing for continuing education requirements for that position, by adoption of an ordinance as provided in Government Code §27000.6. Such an ordinance should be adopted prior to the next filing deadline for the position.
- R-2 The proposed ordinance should be adopted prior to the next filing deadline for the Treasurer-Tax Collector position.

Required to Respond

Mariposa County Board of Supervisors

Invited to Respond

No one at this time.

MARIPOSA COUNTY TOURISM BUREAU AND BUSINESS IMPROVEMENT DISTRICT

Report

Introduction

The Mariposa Grand Jury inquired regarding the relationships between the County of Mariposa and the Yosemite Mariposa Tourism Bureau (Bureau) and the related Mariposa County Tourism Business Improvement District (TBID). Our intention was to understand the various organizations and roles involved and to determine if:

- 1) all sources of public funding for this effort were appropriately accounted for;
- 2) contracts between the County and the Bureau and the TBID were in order and consistent with the statutes;
- 3) reporting was occurring both pursuant to the county agreements and consistent with the management report establishing the TBID;
- 4) the marketing effort was sufficiently transparent.

The Jury was not attempting to determine if there was a link between the efforts of the marketing program and the receipt of Transient Occupancy Taxes (TOT) by the County. The Board of Supervisors has initiated an assessment of such a review in a separate action.

Background

A private non-profit Yosemite Mariposa County Tourism Bureau was established in January 2007 and took over operation of the former County tourism program. The County has supported this tourism industry initiative through annual grants made to the Bureau in the budget process. Those grants have ranged from \$275,000 for that initial partial fiscal year, to \$600,000 in one year. Typically, the agreements have provided \$500,000 per fiscal year. The Board of Supervisors has annually renewed the contract, and the Board has appropriated and granted County General Funds totaling \$4,960,000 to the Bureau over the ten-year period ending April, 2017. Determination of the amount to be granted each year is made by the Board of Supervisors during the budget process. A contract is subsequently executed and funds transferred based on that contract.

The annual contract between the County and the Bureau that provides for the county grant requires that the Bureau conduct marketing, provide two public reports on those marketing efforts, and provide financial reporting. The financial report is “of the Contractor’s activities with an annually compiled *and reviewed* [emphasis added] financial statement

prepared by a Certified Public Accountant.” The contract only addresses the annually appropriated County funds.

In early 2008, the Bureau recommended to the Board of Supervisors that the County establish a Mariposa County Tourism Business Improvement District. A “protest proceeding” was conducted and a majority of the affected lodging businesses Countywide supported the imposition of an assessment on short-term rentals equal to one percent (1%) of gross short-term room rental revenue. The TBID was established pursuant to Streets and Highways Code §36600 et. seq. on April 1, 2008 (Resolution 08-129) for a five-year period. It has subsequently been renewed (Resolution #13-162). While the assessment (not a tax) is imposed following a protest hearing, and can only be imposed if the majority of lodging business owners subject to the assessment agree, the assessment is actually imposed by action of the Board of Supervisors and is collected by county officials. The imposition and collection of the assessment is inherently a governmental function and could not be conducted without the County’s participation.

The TBID was formed consistent with a *Mariposa County Tourism Business Improvement District Management District Plan* dated March 24, 2008. That Plan anticipated annual revenues to the TBID of \$920,000 in that first full year of operation based upon a proposed 1% assessment, and continued annual contributions from the County based on total TOT collected by the County. In the most recent fiscal year (FY2015-16), assessments totaled \$1,448,021. Total disbursements to the TBID during the entire period have been \$10,439,105, as of April 2017.

Pursuant to the management plan, these funds cannot be used for any other purpose. The funds transferred by the County to the Bureau equal to the TBID assessment are not reflected in the County budget, and they are not disclosed by the County even though the Management Plan clearly obligates the County to impose and collect the assessment and have a fiduciary role in the administration of those funds.

The value of the assessment and the General Fund contribution from the County were anticipated to increase annually based on actual TOT receipts. The effectiveness of the TBID’s activities was to be evaluated based on actual TOT receipts.

In addition to the Board of Supervisors task of conducting hearings and establishing the TBID, by adopting the management plan the County agreed to collect the assessment on a monthly basis and to transfer the funds to the TBID. In exchange, the County could charge a 1% fee on funds collected.

The Bureau has the responsibility to conduct the activities of the TBID and is the designated “owners’ association” pursuant to the Management Plan, page 11. Streets and Highways Code §36651 requires that the County “shall contract with the designated non-profit corporation to provide services” as outlined in the management plan. No such contract has been executed.

Approach

The Grand Jury was provided documents by the County that were made available from the Clerk of the Board of Supervisors, the County Administrative Officer, the Treasurer-Tax Collector and the Auditor. The Jury conducted interviews with each of these officials, and asked related questions of the members of the Board of Supervisors when meeting with those officials. Members of the Jury reviewed the statutory requirements contained in the Streets and Highway Code relative to the establishment and operation of a Tourism Business Improvement District and monitored previous and current Board of Supervisors actions relative to the establishment and renewal of the Bureau agreement.

Findings

- F-1 The contract between the Bureau and the County fails to address the entirety of the funding made available to the Bureau from both General Fund and TBID resources. The County only considers the use of General Fund resources.
- F-2 The County has never taken any action executing an agreement as contemplated in Streets and Highways §36651.
- F-3 The financial reporting as required in the contract between the County and the Bureau (annually since 2007) was provided to the County *after* the Grand Jury asked for copies of those documents. The Tourism Bureau has not complied with its agreement to provide "A financial report of the Contractor's activities with an annually compiled and reviewed financial statement prepared by a Certified Public Account."
- F-4 The County continued to disburse funds and to renew contracts despite the absence of appropriate financial reporting.
- F-5 The financial reports that Jury members did obtain were all dated January 6, 2017 and covered the years 2010-2011 - 2014-2015. They included the statement from Spinardi and Jones, Accountancy Corporation: "We did not audit or review the financial statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any assurance on these financial statements." This does not meet the standards established in the contract with the County.

Conclusion

The Grand Jury did not evaluate nor concern itself with the advertising and promotion efforts of the TBID or the Bureau, and has no opinion as to the effectiveness of these activities, except to say Transient Occupancy Tax revenues continue to increase

significantly more than other revenue sources that fund the operation of County government.

The Bureau has failed to provide to the County the financial reporting required under its current or prior agreements with the County for use of General Funds, and the County has not enforced all the provisions of this agreement. Further, assessments imposed by and collected by the County are a fiduciary obligation of the County, and should be treated as such — that is, reported through the budget process even if only in a reconciled trust fund. The Grand Jury holds the position that transparency is an essential part of good government.

The County has not formally designated the Bureau as the “owners’ association” as contemplated in the Streets and Highways Code, and contracted with the owners’ association for the use (and accountability) of the TBID assessment.

Recommendations

- R-1 The County Auditor should cease paying from the General Fund until the type of financial reporting required in the existing contract between the County and the Bureau is provided by the Bureau.
- R-2 The County Administrative Officer should review the Management Plan and ensure that the services provided by the Bureau are consistent with the level of funding provided both from the County contribution and the Tourism Business Improvement District combined.
- R-3 The Board of Supervisors should propose a comprehensive agreement with the Bureau to replace the existing annual agreement, and ensure that all funding is accounted for, including the TBID assessments, and that the appropriate reporting be monitored.
- R-4 The County Auditor and County Administrative Officer should implement a reporting mechanism to ensure that the public has sufficient information about the operation of the Bureau *and* Tourism Business Improvement District, most likely through the annual budget process.

Required to Respond

Mariposa County Board of Supervisors
Mariposa County Auditor - Controller

Invited to Respond

Mariposa County Administrative Officer
Yosemite Mariposa Tourism Bureau

GRAND JURY 2016-2017 CONTINUITY COMMITTEE

Report

The Grand Jury Continuity Committee reviewed the prior five Grand Jury Final Reports (2010-2011 - 2015-2016) and the related responses to determine which issues, if any, indicated a priority for follow-up by the current Grand Jury. After review and approval, the entire Grand Jury selected four subjects for follow-up: The County Technical Services Department, Mariposa Public Utility District operations, the financing of the Yosemite West District, and the operation of the Mariposa County Solid Waste facility.

MARIPOSA COUNTY TECHNICAL SERVICES DEPARTMENT

Introduction

The County of Mariposa has designated a technical services department with responsibility for the County's information systems including over four hundred devices: twenty-four servers, three hundred personal computers, and other electronic devices countywide. The department of Technical Services is the County's webmaster and maintains the County's website, administers the email and phone service, and maintains and supports the County's communications network. The Technical Services department is headed by an appointed director.

Background

The 2010-2011 Grand Jury provided an in-depth oversight report of the Technical Services department's scope of responsibilities, operations, and needs. Six recommendations were forwarded to the Board of Supervisors concerning the operation of the department. The department, and subsequently the Board of Supervisors, commented on two findings of the review and concurred with the recommendations. The Grand Jury's concerns included the preservation and storage of data and recovery from a catastrophic loss, the physical facilities housing the county's servers, the staffing level of the department and the training available to those staff, and the need for updated software to address the many essential county functions that are dependent on county computer systems.

Further, during 2012-2013, the Grand Jury did an analysis of the staffing and support for technical services in the county. The Jury developed a series of recommendations, which again suggested the need for additional technical staff, to improve the physical facilities and update software for many of the County's functions. Again, the department and the Board of Supervisors concurred with the recommendations and noted that while improvements had been made over the several years in review, a major capital investment would be required to address many of the concerns that the Grand Jury had identified.

Approach

As all of the recommendations required subsequent organizational and financial support from the Board of Supervisors, the 2016-2017 Grand Jury thought it would be appropriate to follow-up and determine the status of some of the more significant recommendations. Jury members interviewed the Technical Services Director and looked at the physical facility occupied by the Technical Services staff and by the servers supporting County data processing needs. In addition, the Jury reviewed documents emanating from a Statewide survey of technical departments in counties conducted by the department.

Findings

- F-1 The physical facility that holds the servers providing communications links for offsite processing and that also houses the computers used by the county for in-house data processing is inadequate. While some improvements have been made since the initial Grand Jury investigation, the improvements cannot offset the overall condition of the facility. During our inspection, members of the Jury saw evidence of a leaky roof in the computer room.
- F-2 As resources are made available, improvements have been made in data back-up systems, in preparation for catastrophic loss of data, with additional staff and staff training, and in the acquisition of Windows-based, more user-friendly software. While there will always be some need for in-house expertise to manage overall data processing demands, increasingly departments are able to identify and acquire appropriate software from outside vendors, thus reducing the need for in-house software and expertise but increasing the demands for outside connectivity to non-county resources.
- F-3 Some of the County's major systems, including the financial system and the land-based records used by the Assessor-Recorder, Auditor, and Tax Collector, are not user-friendly, are dependent on an in-house central processing system, and require continued expertise retained by the County. Replacement of these systems requires a major capital expenditure. In prior years, the Board has allocated a little under \$300,000 to begin the process of replacement of these capital-intensive systems.

Recommendations

- R-1 The Board should ensure in the near-term the allocation of adequate, secure space to house the County's information processing and telecommunications equipment. This recommendation has increasing urgency.
- R-2 Replacement of antiquated software managed on the County's computer systems by in-house staff should become a higher priority for the Board, with additional funding added to the capital accounts established for that purpose. For example, the Technical Services Director indicated that approximately \$750,000 would be required to replace the existing accounting software. More funding should be allocated for this purpose.

Required to Respond

Mariposa County Board of Supervisors

Invited to Respond

Mariposa County Technical Services Director

MARIPOSA PUBLIC UTILITY DISTRICT

Introduction

The Mariposa Public Utility District is an independent special district with responsibility for water, wastewater, and fire service in the township of Mariposa. As such, the Grand Jury has jurisdiction to review the facility and its operation.

Background

The 2011-2012 Grand Jury noted the water treatment plant for drinking water operating at the time of their report did not consistently meet clean drinking water standards, and commented that the District was in the process of replacing that plant. The new replacement surface water treatment facility has been in operation since August 2013 and enables the District to provide up to one million gallons per day of treated surface water from the Saxon Creek diversion from the Merced River and from the Stockton Creek Reservoir; both water sources are operated by the District. The new facility enables the District to consistently meet current drinking water standards as established by state and federal regulatory agencies.

The 2011-2012 Jury also noted that the wastewater collection and treatment plant permits should be reviewed, and that a replacement plant or a modified existing plant should be developed. The concern is that the discharge from the existing facility cannot meet permitted standards established by the state and federal regulatory agencies, though the District generally meets the interim standards required pursuant to the interim time schedule order issued by the Regional Water Quality Control Board. This interim order provides the District time to develop a modified or replacement wastewater treatment facility.

The District has recently obtained a \$6,000,000 grant and \$2,520,000 in low interest loans for construction of improvements to the existing treatment plant. The proposed project is in the final engineering phase as of April, 2017 with construction anticipated to begin in the summer of 2017.

In spite of the fact that discharges from the wastewater treatment plant conformed to interim standards established by the State regulatory agency, the District was sued in federal court for not meeting underlying permit or final limitation standards. Following an adverse ruling by the court, the District's Board of Directors entered into a consent decree

settling the lawsuit by paying \$170,000 in plaintiff's attorney's fees and \$80,000 in improvements benefiting Mariposa Creek. The District's defense cost an additional \$63,000 not including staff time. As the District's operations are an enterprise, the rate payers of the District will pay for these costs. The settlement was necessary in order to obtain both the grant and low-interest loan noted above and will enable the treatment facilities improvement project to proceed. (See Complaint #2.)

The 2011-2012 Jury further suggested the 73,000 feet of wastewater collection pipe owned by the District should be replaced. However, the District noted that replacements and improvements are implemented as necessary in order to ensure the safe operation of the collection system, and as funding becomes available, improvements are made annually to the overall system.

The 2011-2012 Jury suggested that a review of the District's fire budget was necessary. The District's Board of Directors reviews the fire budget annually and has sought consulting assistance to review levels of service, staffing, and funding options. Any adjustment of the District's fire protection fees would require a benefit study and voter approval pursuant to the requirements of Proposition 218. District staff is currently reviewing Mariposa County's options for the organization of the County Fire Department and will provide a proposed approach to the Board of Directors once the County organizational decision is made.

Approach

The Continuity Committee noted that Grand Jury records did not include a response to the 2011-12 Grand Jury Report from the Mariposa Public Utility District, an independent special district. In their final report, the 2011-2012 Grand Jury provided findings and recommendations. This year's Grand Jury determined to seek a response and to see if the former Jury's findings were still relevant. Members interviewed the General Manager of the District and toured the water treatment facility providing municipal water for the township of Mariposa. In addition, members of the Jury sought and received a written response to the former Jury's findings, which is included here as an attachment (Appendix B).

Findings

- F-1 The 2013 surface water treatment facility, with a million gallon per day capacity, has sufficient capacity to address existing and any potential growth in the District for the foreseeable future.
- F-2 The settlement of the lawsuit with Friends of Mariposa Creek and Sarah Windsor addressed one of the primary funding agencies' requirements (issues of litigation are expected to be resolved prior to funding agreement approval) for the District to be awarded \$8.52 million in grants and low-interest loans from State and federal sources. Even though the \$250,000 settlement and \$63,000 in defense costs will have to be paid by the ratepayers, the settlement was a necessary step toward the

wastewater treatment facility improvement project. Replacement of the facility is necessary in order to meet final limitation permit requirements by 2020.

- F-3 A new wastewater treatment facility, anticipated by 2020, will enable the District to address existing and greatly expanded wastewater disposal demands while ensuring compliance with wastewater permit requirements.

Required to Respond

No one at this time.

Invited to Respond

No one at this time.

MARIPOSA COUNTY LANDFILL

Introduction

Solid waste in Mariposa County is handled by the Public Works Department through a Solid Waste and Recycling Division. The Division operates the landfill, recycling center and compost facility located two miles west of Mariposa on State Highway 49 North. Along with four transfer stations throughout the County, the landfill provides the disposal needs of the 18,000 county residents as well as the over five million visitors to Yosemite National Park each year.

The facility is operated under permit issued by the State of California Department of Resources, Recycling and Recovery (CalRecycle). As noted by the 2012-13 Grand Jury, the goals of the state regulatory agency include the significant reduction of the waste stream through reduction in use of disposables, recycling, and composting. Another goal is the elimination of small local landfills to be replaced by large, regional landfills. This approach would ultimately result in the Mariposa landfill being a transfer station, collecting local waste and transporting it to a regional site. There is sufficient capacity in the existing modules at the landfill to continue operating as a landfill for approximately seven to twelve years, depending on a number of management decisions which will need to be made over the next several years.

One of those decisions which could extend the life of the existing landfill is through enhanced operation of the compost facility, which involves significant investments in screening equipment and personnel to operate the revised sorting system required. Another significant decision will be how to implement a charge for unsorted recyclables in order to recoup the cost of the required sorting of those recyclables. Right now, this cost is borne by general tipping fees.

The Grand Jury decided to follow up to see what progress had been made toward resolving these issues since the Jury's 2012-13 report.

Approach

The members of the 2016-2017 Grand Jury Continuity Committee took a tour of the landfill site to follow-up on 2012-2013 Grand Jury report recommendations. The facility manager gave the tour and answered general questions posed by the members. A second visit was conducted specifically to interview the manager, whom needed time to review previous Grand Jury reports before he could provide answers to specific questions.

Findings

- F-1 The members determined that all California State inspections were conducted and the facility passed without incident. The manager informed us that it would take approximately \$34,000,000 to line the remaining cells as required by current State regulations and the EPA. Additionally, the approximate cost of closing the landfill is between \$11,500,000 and \$12,000,000 (\$1,200,000 is on reserve). In its current state, the landfill is estimated to have a lifespan of between seven and twelve years. Therefore, management is looking to become a viable transfer station.
- F-2 In order to capture further revenue, becoming a viable transfer station would include upgrading the current bailer, which is inefficient—the cost of the new bailer is approximately \$600,000.
- F-3 Currently, the facility handles approximately fifty tons of waste per day October to June, and approximately one hundred tons per day June to September due to tourism of Yosemite. The management is working toward bringing the facility to a 25-0% diversion rate, which is well within the current State mandated rate of 65%. In order to reach this goal, the facility would need to complete its move toward a 'positive' sort model in order to capture more 'recovery' material that could be sold for profit. A positive sort model would necessitate the purchase of a three-inch sorting screen to replace the nine-inch sorting screen and add two additional permanent full-time employees at a first-year cost of approximately \$1,200,000.
- F-4 Management is working toward revising the collection fees from all unsorted waste streams. This may include eliminating the current 'no charge' for mixed recycling materials dumped on the floor of the sorting barn. The cost for handling unsorted, mixed recycling materials is approximately \$35/ton.
- F-5 Management was in the process of working with the State to receive a grant of \$3,000,000 for the purchase of a large wood chipper, which would also bring in additional revenue.

Recommendations

R-1 Over the next twenty-four months, the Mariposa Board of Supervisors continues to work with the facilities management in making pivotal decisions regarding the plan to convert the Mariposa Landfill facility into a viable transfer station.

Required to Respond

Mariposa County Board of Supervisors

Invited to Respond

Mariposa County Public Works Director

YOSEMITE WEST WASTEWATER TREATMENT FACILITY

Introduction

The Yosemite West Community Services District is a dependent special district within Mariposa County designed to finance and maintain the water, sewer, and roads of the Yosemite West Subdivision located at 5,000 feet elevation on the Western edge of Yosemite National Park approximately fifty miles from downtown Mariposa. As a dependent district, the Mariposa County Board of Supervisors serve as the Board of Directors of the District. The Mariposa County Public Works Department is responsible for the daily operation of the Yosemite West Community Services District, and is reimbursed for that effort by fees imposed on property owners and residents of the District.

Background

Public wastewater disposal systems such as the one serving Yosemite West are regulated by the Regional Water Quality Control Board, a state agency. The Regional Board has at various times caused development moratoriums within the Yosemite West district due to violations of waste water disposal permits.

The 2012-13 Grand Jury evaluated the relationship between the County and the District because of repeated failures by the County to address issues with the waste disposal system since 1985. In their report, the Grand Jury concluded that the “property owners of Yosemite West have been poorly served by the County” and urged the Board to make necessary repairs and improvements in the system. In addition, the Grand Jury noted the importance of ensuring that general taxpayers of the County were not paying for system improvements that should be charged to the residents of the District, and similarly that the District was only paying for those services received by residents in that area. This accounting becomes more important because of the dual roles played by the Board of Supervisors.

In September 2015, the Board of Supervisors received a financial analysis from a consulting certified public accountant which addressed concerns regarding the

misallocation of resources between the two entities, and as a result, the Board has taken the following actions:

- Resolution #2015-557: Forgiving a \$41,997 loan from the General Fund to Yosemite West as repayment for funds incorrectly paid to the General Fund;
- Budget allocation of \$65,000 from the General Fund to Yosemite West to correct a loan repayment that should not have occurred;
- Resolution #2016-585: Transfer of \$145,055 from the General Fund Reserve for Contingencies to the Yosemite West Maintenance District Utility Capital Fund to resolve all other issues in the financial analysis.

As a result of these transactions, all known financial obligations between the District and the County should be resolved. The Public Works Director has indicated that future transactions should not result in funds owed between the agencies.

Approach

The current Grand Jury interviewed the Director of Public Works and discussed these prior concerns and the continuing public uncertainty about separating county business and costs from district business, which is appropriately at district cost. Subsequently, the Director provided the Jury with copies of the 2012 *Effluent Disposal Study* and the *Treatment Plant Upgrade Plan* developed by Provost and Prichard Consulting engineers, and with the *Financial Analysis Covering the Yosemite West Wastewater Treatment Facility* dated September, 2015. The *Financial Analysis* purports to resolve outstanding misallocation of resources from Yosemite West to the General Fund, and the Board of Supervisors has implemented that report.

Findings

- F-1 Activities performed by the County on behalf of the Yosemite West Maintenance District are appropriately charges to the Yosemite West homeowners through fees charged for water, wastewater and road maintenance.
- F-2 The Board of Supervisors routinely acts on Yosemite West District issues while sitting as the Board of Directors of the Maintenance District. While this difference is clearly delineated in the public record, it may be confusing to the general public not familiar with the intricacies of governance of public agencies, particularly dependent special districts.
- F-3 The recommendations of the 2012-13 Grand Jury have been fulfilled, resolving many outstanding issues between the Board and the homeowners in Yosemite West, including:

- Satisfactory implementation of repair and improvements recommended in the engineering studies of the wastewater treatment plant, correcting operating and facility design issues;
- Actions in 2015 and 2016 implementing the Financial Analysis, resulting in loan forgiveness for the Yosemite West Maintenance District and transfers of General Funds of the County to the District.
- Institution of procedures to minimize or eliminate the inappropriate allocation of resources from Yosemite West Maintenance District to the General Fund and vice-versa.

Recommendations

- R-1 When reports are prepared specifically on behalf of the Yosemite West Maintenance District, pages of the report should provide acknowledgement of the entity for whom the report was prepared for and not the County of Mariposa, ensuring that no confusion exists about who owns the facilities and has financial responsibility. The cover and each page of the reports referenced above has “County of Mariposa” at the top making it appear the County owns the facilities and is liable for regulatory violations. In fact, the Yosemite West Maintenance District is the entity being cited in violation of operating permit conditions.
- R-2 The Board of Supervisors, acting as the Board of Directors incurs a liability in public perception for the condition and operation of the Yosemite West Wastewater Treatment Plant. County Supervisors serving in both roles should fully understand the liability associated with this level of association and collaboration, and should be careful to publicly clarify which role they are acting in when relevant actions are taken.

Required to Respond

Mariposa County Board of Supervisors

Invited to Respond

Mariposa County Public Works Director

GRAND JURY 2016-2017 INVESTIGATIONS

Report

COMPLAINT #1

Introduction

The 2016-2017 Grand Jury received complaint #1 regarding a conflict of interest between a prominent county official and the County. The complaint also contained several accusations of ethics violations and a misuse of County funds. Complaint #1 was sent anonymously.

Approach

An investigative committee was formed and charged with the task of researching the specifics of the complaint. Members of the committee did extensive research into all public information and documents that were available in regard to the specific charges. The committee was not able to do a follow-up with the complainant as he or she was unidentified in the complaint.

Findings

The committee could not find concrete evidence to substantiate the specifics of the complaint. Therefore, no inquiry was conducted.

Recommendations

No recommendations.

COMPLAINT #2

Introduction

The 2016-2017 Grand Jury received complaint #2 regarding the lawsuit between Mariposa Public Utility District (MPUD) and Friends of Mariposa Creek and Sarah Windsor. The complaint cited the June 16, 2016 front page of the Mariposa Gazette reporting on the settlement between the public utilities district and the litigants.

Approach

The complaint was read and reviewed by the Jury members to determine if it warranted further inquiry.

Findings

After careful consideration and evaluation of the complaint, the members of the Jury determined that due to ongoing litigation, the matter was beyond the Jury's jurisdiction. Therefore, no inquiry was conducted.

Recommendations

No recommendations.

COMPLAINT #3

Introduction

The 2016-2017 Grand Jury received complaint #3 regarding an accusation that retirement benefits for county employees may have been modified by action of the Board of Supervisors without complying with disclosure and actuarial requirements.

This was a statewide complaint without Mariposa County specific information.

Approach

After consideration, the Jury felt the complaint contained insufficient information to warrant an inquiry.

Findings

Not applicable as the Jury did not conduct an inquiry.

Recommendations

No recommendations.

COMPLAINT #4

Introduction

The 2016-2017 Grand Jury received complaint #4 from a group called Citizens of California, French Camp, CA regarding "California Government Code §270 and §271" and various other State of California Codes as the basis of a narrative supporting a political point of view.

Approach

The complaint was read and reviewed by all members of the jury to determine if further inquiry was warranted. During the discussion, an Internet search was made to reveal more about the State codes, §270 and §271 without significant results. Further discussion took place regarding the nature of the complaint with respect to the Grand Jury's jurisdiction.

Findings

After careful consideration of the specifics of complaint #4, the Jury determined the complaint was found to not to be substantiated. Therefore, no inquiry was conducted.

Recommendations

No recommendations.

COMPLAINT #5

Introduction

The 2016-2017 Grand Jury received complaint #5, an unsigned complaint, indicating concerns with the Mariposa Public Works Department.

Background

The Mariposa Gazette reported on the 2015-2016 Grand Jury Report concerning issues at the Health Department. The complainant indicated that similar concerns applied to the Public Works Department.

Approach

After consideration, the Jury felt the complaint contained insufficient information to warrant an inquiry.

Findings

Not applicable as the Jury did not conduct an inquiry.

Recommendations

No recommendations.

COMPLAINT #6

Introduction

The 2016-2017 Grand Jury received complaint #6 regarding the hiring and selection process within the Mariposa County Department of Human Services.

Approach

Interviews with the complainant and the department's director were conducted at the Grand Jury office. In addition, Merit Systems' policy and procedure manuals were examined.

Findings

After careful consideration, the members of the Jury determined that established policy was followed by the Department of Human Services in this case. Therefore, no further inquiry was conducted.

Recommendations

No recommendations based upon the findings of this inquiry.

COMPLAINT #7

Introduction

The 2016-2017 Grand Jury received complaint #7 regarding a civil suit under review in the California Superior Court regarding road maintenance.

Background

The County of Mariposa did not take appropriate action in accepting, rejecting, or partially accepting offers of dedication of roads in minor subdivisions for a period from 1977 through 1990, resulting in a lack of appropriate notice to landowners. This complaint mirrors a civil suit under review in the Superior Court.

Approach

The Jury determined the complaint was involved in a pending lawsuit and, therefore, was not within the Jury's jurisdiction. No further inquiry was conducted.

Findings

Not applicable as the Jury did not conduct an inquiry.

Recommendations

No recommendations.

COMPLAINT #8

Introduction

The 2016-2017 Grand Jury received complaint #8 regarding the notion that the people of the State of California are being denied equal access to the courts; there are no judges lawfully bound by oath; the Grand Jury is restricted and misinformed; the people are being prosecuted under color of law; and the State of California cannot be an injured party to a crime.

Approach

After review and discussion, the Jury determined the complaint did not warrant an inquiry.

Findings

This complaint was sent statewide to numerous Grand Juries, including Mariposa County. There was no information specific to Mariposa County identified in the complaint.

Recommendations

No recommendations based upon the findings.

COMPLAINT #9

Introduction

The 2016-2017 Grand Jury received complaint #9 regarding a lack of compliance with personnel policies at John C. Fremont Hospital District.

Approach

After a review of the complaint and careful consideration, an inquiry was conducted to research the specifics of complaint #9. Members of the Jury conducted interviews with the JC Fremont Hospital's Human Resource Director and gathered copies of policy documents.

Findings

Based upon the information gathered through the inquiry, the Jury found policy was being followed by the administration. Additionally, the Jury found that there continues to remain an issue of timeliness in the implementation of the policy.

Recommendations

The Jury recommends that JC Fremont management ensure the implementation of all policies and procedures in a timely fashion, and that all policies and procedures are transparent to all concerned employees, including staff, administrators, and the Board of Directors for the hospital.

COMPLAINT #10

Introduction

The 2016-2017 Grand Jury received complaint #10 regarding the Lake Don Pedro Community Services District. This citizen complaint alleges emergency grant funds may have been misused, that the LDP CSD board provided the opportunity and motivation for

grant fund misuse through fiduciary failures, and that the LDP CSD has refused to explain cost changes and related revenue funding.

Approach

After review and careful consideration of the complaint, an interview was conducted at the Grand Jury office with the complainant.

Findings

Based upon the interview, the Jury determined the allegations in the complaint were outside the purview of the Grand Jury because the funding in question was granted by the State of California, which oversees the handling of such funds. Therefore, no further inquiry was conducted.

Recommendations

No recommendations based upon the findings of this inquiry.

COMPLAINT #11

Introduction

The 2016-2017 Grand Jury received complaint #11 regarding the day-to-day management of JC Fremont Hospital.

Background

John C. Fremont Healthcare District (JCF) is an independent, countywide special district. Its hospital, three clinics, labs, long-term care facility, and all other functions serve the residents of Mariposa County. A portion of JCF's annual budget is derived from county property taxes.

The JCF District is governed by a publicly elected Board of Directors consisting of five members. These members of the Board are directly accountable to the citizens of the community. The Board is responsible for hiring a Chief Executive Officer (CEO), who is responsible for the management of all aspects of the JCF District.

Approach

After careful review and consideration of the complaint, members of the Jury interviewed physicians associated with the District in order to glean further information regarding the management of the facility. The findings that follow are solely based upon those interviews.

Findings

The Grand Jury determined that there is sufficient cause to warrant further investigation. However, there was insufficient time remaining in the 2016-2017 Grand Jury's term to adequately address the concerns noted in the complaint.

Recommendations

The Grand Jury of 2017-2018 continue to investigate complaint #11.

COMPLAINT #12

Introduction

The 2016-2017 Grand Jury received complaint #12 regarding the alleged non-professional behavior of a sheriff's deputy.

Approach

After a careful reading and discussion of the complaint, the complaint was determined not to be within the Jury's mandate. Therefore, no inquiry was conducted.

Findings

Not applicable as the Jury did not conduct an inquiry.

Recommendations

No recommendations.

STEVEN W. DAHLEM
County Counsel



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COUNTY OF MARIPOSA
OFFICE OF COUNTY COUNSEL

December 15, 2016

Charli McCord, Foreperson
Mariposa County Grand Jury
P.O. Box 789
Mariposa, CA 95338

Dear Ms. McCord:

As I discussed with the Grand Jury on October 24, 2016, and with you and Judge Fagalde on December 8, 2016, I have determined that it is a conflict of interest for me to serve as County Counsel and to also serve as an advisor to the Grand Jury.

The Mariposa County Counsel's office is a one attorney office. As such, I advise the Board of Supervisors, County Administration, and other county departments on the very matters the Grand Jury may seek to investigate.

To also advise the Grand Jury would be to represent adverse interests, which is prohibited by the Rules of Professional Conduct.

Pursuant to Penal Code §934, the Grand Jury may request the advice of the court, or the judge thereof, the district attorney, or the Attorney General.

Very truly yours,

A handwritten signature in black ink that reads "Steven W. Dahlem". The signature is written in a cursive style.

Steven W. Dahlem
County Counsel

SWD/rs

cc: The Honorable Michael A. Fagalde, Superior Court Judge
Thomas K. Cooke, District Attorney

MARIPOSA PUBLIC UTILITY DISTRICT

DIRECTORS:
WILLIAM H. BONY-SHU
LARRY ENRICO
DANA L. FINNEY
ROBERT W. MCKENJEFF
DAVID RAJ-AROVICH

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water
wastewater
fire protection

November 21, 2016

Mariposa Grand Jury Foreperson:

The 2011/2012 Grand Jury report included a discussion of the Mariposa Public Utility District. Members of the Grand Jury did interview me as well as toured some of the Mariposa Public Utility District (MPUD) facilities, primarily the Saxon Creek Water Project. The final report included some findings and recommendations for the District. Although the District has been proceeding with some of the tasks listed, there was no official response prepared for the Grand Jury.

The recommendations included:

1. Wastewater collection and treatment plant permit requirements must be reviewed.
2. MPUD needs a new wastewater treatment plant, or the existing plant must be modified to treat increasing amounts of standard wastewater as well as increased infiltration of storm related wastewater.
3. 73,000' of main line must be replaced.
4. Review of the Fire District budget is necessary.

The tasks either completed or in process concerning the Grand Jury recommendations are as follows:

1. Implemented - The Wastewater Treatment Facility (WWTF) is permitted by the California Central Valley Regional Water Quality Control Board (RWQCB). The collection system is permitted by the State Water Resources Control Board (SWRCB). The WWTF treatment requirements, monitoring and discharge limitations are regulated through the Federal National Pollutant Discharge Elimination System (NPDES) process, permit no. Ca 0079430. The collection

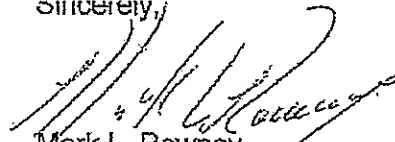
system permit is 5SS010744. In addition to the NPDES permit, the RWQCB has issued Time Schedule Orders that include interim limits with specified time limits for certain compounds to provide the District time to construct WWTF improvements that will result in compliance with final limits of the permit. The RWQCB and the District review the NPDES permit requirements and limitations on a five year schedule. There are some limitations in the current permit which are unattainable at the existing treatment facility which are addressed in a proposed project as described in 2 below.

2. Implemented- MPUD has been in the process of funding and design as well as completed environmental studies in preparation of a construction project at the WWTF. The project does include an equalization/anoxic basin that will provide storage and metered flow of collection system wastewater including infiltration of storm water. Basically the project is designed to provide compliance with treatment requirements and final limitations of the NPDES Permits. The project is scheduled in the SWRCB 2016/2017 Clean Water State Revolving fund program implementation plan for funding in the amount of \$6,000,000 grant and \$2,520,000 low interest loan. We expect the construction bid advertisement to take place in the spring of 2017. A more complete description of the District infrastructure is included in the attached documents.
3. I am not sure of the basis for this comment. However there is a significant amount of sewer collection mains constructed in 1957 still in service. The original collection system was constructed of vitrified clay pipe. There are some portions that were poorly installed with some damage to the structure of the pipe. The district does perform regular maintenance cleaning within the collection system. Sections of collection mains and service laterals are TV inspected and repaired if necessary when failures (sewer overflows) occur. Replacements of collection system mains take place as funding is available. This year The district replaced the highway crossing and installed three manholes at the Highway 49 and 140 north intersection.
4. Implemented- The MPUD Board of Directors reviews the fire department budget each year. The revenues of the fire department are close to inadequate to maintain the fire department assets and operation as it currently exists. The District has requested proposals from two contractors to prepare studies with the purpose of reviewing level of service options, staffing and funding alternatives. No proposals were received. Any adjustment in the current fire protection fees charged within the District will require the preparation of a benefit study and voter approval consistent with the requirements of Proposition 218. District Staff is currently reviewing the Mariposa County proposals for the County Fire Department operation to formulate an operations or study proposal for the MPUD Board to consider.

Appendix B

A law suit filed against the District by Friends of Mariposa Creek in 2015, has had a significant impact on the fiscal and operational conditions of the District. I have included the summary sent to the MPUD customers that explains the District's position resulting from the law suit and subsequent settlement. Also included with this report is an updated "General Information" about MPUD with attachments for your review. If you wish to review additional information please let me know. I am available to meet with members of the Grand Jury at your convenience.

Sincerely,



Mark L. Rowney
General Manager

MLR:sw
enclosures