



BOARD OF SUPERVISORS COUNTY OF MADERA

MADERA COUNTY GOVERNMENT CENTER
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TANNA G. BOYD, Chief Clerk of the Board

June 20, 2013



The Honorable D. Lynn Jones
Presiding Judge
Madera County Superior Court
209 W. Yosemite Avenue
Madera, CA 93637

Subject: Response to the 2012-13 Grand Jury Report entitled "Complaint Regarding County Administration and Finance"

Honorable Judge Jones:

Pursuant to Penal Code Section 933.05(a) and (b), please allow this document to serve as the response from the Board of Supervisors ("Board") to the findings and recommendations in the Grand Jury Report entitled, "Complaint Regarding County Administration and Finance" (hereafter, referred to as, "Report.")

Prior to addressing the content of the Report, the Board must express its concern about the lack of professionalism and lack of confidentiality of this Grand Jury. The Grand Jury is obligated to keep any final report confidential before it is made public. Unfortunately, the contents and findings in this Report were being discussed in public days prior to the Report being provided to the Board. The premature "leaks" of the findings in this Report were being discussed via gossip and rumor mill. This breach of confidentiality, along with the manner in which the Grand Jury approached their investigation, causes the Board to question whether there is a political agenda at work. The Grand Jury's lack of respect for their own procedures and protocols have led the Board to question the motive behind this Report.

The Grand Jury states in the "Introduction" section of its Report that "The Grand Jury received a complaint regarding the management practices of the Madera County Administrative Officer (CAO)" It is noted by this Board that the Grand Jury specifically states that it received "a complaint." A singular complaint. Based upon one complaint from apparently one disgruntled individual, the Grand Jury took it upon itself to spend six (6) months investigating the management practices of the CAO.

The CAO has oversight responsibilities for approximately 1,200 individuals that are employed by the County of Madera. The Board confirmed with the Human Resources Department that there has never been a complaint filed by a County employee against the CAO during his tenure with the County. The Board finds this fact to be significant when evaluating the credibility of the Report.

The Board of Supervisors respects the role of the Grand Jury to act as the public's "watchdog" and its role in investigating and reporting upon affairs of local government. However, the Board is perplexed as to why the Grand Jury went to such great lengths to investigate the CAO in response to one complaint. The Board believes that the focus of the Grand Jury's efforts as detailed in this Report are misplaced. If the Grand Jury felt compelled to act on the single complaint against the management style of the CAO, it would have been more professional and effective to present their concerns to the HR Director and Board of Supervisors and request further inquiry.

Based upon the recitation of the facts and the content of the findings and recommendations in the Report, it is apparent that the Grand Jury investigation into the management practices of the CAO centered on his dealings with the Treasurer-Tax Collector. The Board is readily aware of some conflict between the CAO and the Treasurer-Tax Collector. The friction centers around the same issues identified by the Grand Jury – such as problems with cash handling procedures, internal control deficiencies identified in outside audits, and the exercise of check writing authority on investment accounts. The Board and the CAO share these same concerns of the Treasurer-Tax Collector's office. That is why the Board directed the CAO to retain Hemming Morse to conduct an audit.

The Grand Jury's criticism of the CAO and the Board regarding the handling of the accounting problems is not well taken. The most fundamental duty of local government is accuracy and integrity of the public treasury. Nothing shakes the public confidence in local government more than the perception that the public treasury is not well managed. For these reasons, the CAO, at the direction of the Board, has taken direct action to investigate and correct the situation.

In this difficult fiscal environment, the Board cannot conduct "business as usual." The Board is pursuing an agenda to ensure that all County agencies are operating correctly and efficiently, and most important, with integrity. The Board has directed the CAO to carry out this agenda. The Board has absolute confidence in the CAO and has no intention of altering any management practice. For these reasons, the Board is responding to the Grand Jury Report on behalf of the Board and the CAO.

The Board's Response to the Findings:

At the outset, the Board is of the opinion that the Findings detailed by the Grand Jury in the Report are not supported by the record. It is evident that the Report primarily relies upon hearsay; first from one complaining employee, and thereafter alleged testimony from "many County employees." The Findings in the Report are required to be supported by actual evidence, with well-reasoned and logical conclusions. The findings in the Report are presented as opinions, not factual findings.

In addition, this Board has concerns regarding the tone and tenor of the findings in the report. The language used reeks of bias and is not appropriate. It is the Board's opinion that the opinions expressed by the Grand Jury are recklessly presented as fact, which opens up the potential for a claim of slander or libel against the Grand Jury.

1. The Madera County Administrative Officer:

- a. The Board disagrees with this finding. This finding is a vague and ambiguous, unsupported opinion. The Board has no knowledge of any instance of the CAO using intimidation or threats to obtain compliance with his directions.
- b. The Board disagrees with this finding. The CAO has demonstrated strong leadership qualities.
- c. The Board disagrees with this finding. This finding is a vague and ambiguous, unsupported opinion. The Board has no knowledge of any claim or complaint of negative morale as a result of the CAO's actions. In fact, the direction of the business model and agenda of the County of Madera has been embraced by the employees. Only those employees who fear accountability would resist the current agenda.
- d. The Board disagrees with this finding. The Board has no knowledge of any complaint of favoritism from the CAO.
- e. The Board disagrees with this finding. This finding appears to be the result of speculation by the Grand Jury. The Board believes the information it was provided was and is accurate regarding the 2011 Single Audit.
- f. The Board disagrees with this finding. This finding is unsupported opinion. The problems in the finance department are being addressed at all levels.
- g. The Board disagrees with this finding. This finding is a vague and ambiguous, unsupported opinion. The Board has found the CAO to be professional at all times, and has received no complaints to the contrary.
- h. The Board disagrees with this finding. This finding is not supported by facts or evidence. The CAO has kept the appropriate persons aware of the details of the Hemming Morse Audit to the satisfaction of the Board. The Board is aware that the Treasurer-Tax Collector has been at times uncooperative with the progression of the Hemming Morse audit.

4. The Madera County Board of Supervisors:

- a. The Board disagrees with this finding. The finding is unsupported opinion. The Grand Jury is overstepping its bounds. The criticism of the Board is misplaced and it is apparent that the Grand Jury relied upon inaccurate and unreliable information. The Board has been informed and is very motivated to resolve the issues regarding the Single Audit. The Board cannot perform the duties of other elected officials.
- b. The Board disagrees with this finding. The Board directed compliance with the outside audit findings. However, the relevant elected officials whose job it is to comply with findings of the audit did not do so in a prudent manner. As such, the Board directed the CAO to look into the issues and accomplish the goals of the audit. The Grand Jury Report is critical of the Board and concludes that

more should have been done, and at the same time criticizes the CAO for pushing the Treasurer-Tax Collector to comply. The Grand Jury lacks credibility by taking these contrary positions.

c. The Board disagrees with this finding. This finding is unsupported opinion. The Board confirmed that no complaints have been made against the CAO with the HR Department.

d. The Board disagrees with this finding. This finding is unsupported by the facts. The CAO acts at the Board's direction. The CAO's authority and job duties are detailed in Madera County Code Section 2.24.

e. The Board disagrees with this finding. This finding is vague and ambiguous, not supported by the facts. The Grand Jury's criticisms are misplaced as they are one-sided, biased and not based in fact.

The Board's Response to the Recommendations:

The Board responds as follows to those items and issues that are within its direct control.

1. The recommendation will not be implemented because it is not warranted or is not reasonable. The Board has no intention to meet with the CAO as directed by the Grand Jury.

a. The recommendation will not be implemented because it is not warranted or is not reasonable. The authority of the CAO is specifically detailed in Madera County Code Section 2.24.

b. The recommendation will not be implemented because it is not warranted or is not reasonable. The Board approves of the CAO's management practices.

c. The recommendation will not be implemented because it is not warranted or is not reasonable. The Board is of the opinion that the County administration team works well together, promotes cooperation and collegiality. There are regular team meetings between agencies that allow for cooperation and communication on all issues.

2. The recommendation will not be implemented because it is not warranted or is not reasonable. The Board has procedures in place to stay informed and up to speed on departmental issues.

4. The recommendation will not be implemented because it is not warranted or is not reasonable. The Board directed the outside audit by Hemming Morse. After review and analysis of said audit, the Board will determine a course of action to rectify any accounting issues in the Treasurer-Tax Collector's Office.

8. The recommendation will not be implemented because it is not warranted or is not reasonable. The Board is already being briefed by the Auditor-Controller on a regular basis.

9. The recommendation will not be implemented because it is not warranted or is not reasonable. The Board has already shown its commitment to finding an immediate remedy for the accounting

issues by completing the Single Audit and directing an outside audit. The Board is pursuing a prudent course of action with the urgency that these issues deserve.

10. The recommendation will not be implemented because it is not warranted or is not reasonable. The Board cannot control everyone, especially elected officials. Certainly the Board recognizes that an effective working relationship between different agencies of local government benefits the taxpayers of Madera County. The Board doesn't rely upon the Grand Jury to state the obvious.

Sincerely,



Max Rodriguez, Chairman
Madera County Board of Supervisors



Madera County Grand Jury

P. O. Box 534, Madera, CA 93639
Tel. 559-662-0946

May 13, 2013

Madera County Board of Supervisors
200 West 4th Street
Madera, CA 93637

Enclosed is a copy of the 2012-13 Madera County Grand Jury report entitled:

Complaint Regarding County Administration and Finance

Pursuant to California Penal Code Section 933.05(f), a copy of the report is being provided to you two working days prior to the report's public release. The public release of this report is scheduled for May 15, 2013. Please note that under Penal Code section 933.05(f), (no) "officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report."

In accordance with California Penal Code Section 933.05(a) and (b), you shall respond to the **findings and recommendations** in this report that address subjects under your control.

According to Penal Code Section 933(c), you have 90 days to submit your responses to both the **findings and recommendations** contained in this report. Accordingly, the date on which the responses must be submitted is August 15, 2013.

Please send your responses to:

Presiding Judge
Madera County Superior Court
209 West Yosemite Avenue
Madera, CA 93637

Madera County Grand Jury
P.O. Box 634
Madera, CA 93639

Thank you.

Phil Atkisson
Foreman
2012-13 Madera County Grand Jury



Madera County Government Center

2012-2013
Madera County Grand Jury
Final Report
Complaint Regarding
County Administration and Finance

2012-2013
Madera County Grand Jury
Final Report
Complaint Regarding
County Administration and Finance

Introduction:

The Grand Jury received a complaint regarding the management practices of the Madera County Administrative Officer (CAO). While investigating the alleged aggressive and intimidating management style of the CAO, the Grand Jury discovered related problems with the mandatory Single Audit, the cash handling procedures of the Treasurer-Tax Collector and the lack of oversight by the Board of Supervisors. Further, needless bickering by top County officials is a distraction and obscures a major problem, the failure to file the annual mandatory Single Audit with the State Controller's Office. The filing of the Single Audit has been delayed for more than one year and has resulted in the late or lost receipt of more than three million dollars of Federal and State funds for road and grant projects.

This investigation was conducted over a six month period. Many county employees at all levels were interviewed. Multiple Board of Supervisors (BoS) meetings were attended. The Grand Jury reviewed contracts, BoS letters, BoS videos, emails, public websites, Government Code and audit reports to determine the facts in this matter.

Complaint Allegations:

1. The CAO creates a hostile work environment by:
 - a. bullying, intimidating and threatening subordinates;
 - b. demonstrating retaliation, resentment, and secrecy;
 - c. sending threatening and intimidating emails and letters to department heads;
 - d. using inappropriate and profane language in an angry email to department heads;
 - e. engaging in angry, verbal tirades in the presence of others.
2. The CAO plays favorites with certain employees.
3. The CAO uses divisive tactics by pitting department heads against one another.

Facts:

1. The Madera County Administrative Officer (CAO):

- a. has been the County's chief executive for the past three years;
- b. oversees major organizational changes to align resources commensurate with the County's fiscal constraints;
- c. at times exhibits a domineering, over controlling management style causing a detrimental effect on morale and motivation (stated by several witnesses interviewed);
- d. is considered aggressive, impatient and short tempered by some of his subordinates;
- e. has written negative emails and letters to several employees and a prominent community leader;
- f. participated in discordant exchanges with the Treasurer-Tax Collector and the Clerk-Recorder;
- g. submitted a Board Letter dated February 26, 2013, requesting the BoS hire an audit firm, Hemming Morse, to perform an audit of the Treasurer's financial accounts, activities, and processes. In that letter he stated that the audit "*...will help provide clarity to the cash balancing situation that is holding up the 2010-2011 audit (Single Audit) by Galena (accounting firm)*".
- h. failed to present to BoS the findings of 2009 and 2010 outside audits;
- i. was directed by the Board to include Treasurer-Tax Collector in communication, scheduling and scope of work of the Hemming Morse audit.

2. The Madera County appointed Auditor-Controller:

- a. delivered an oral presentation during the February 26, 2013, BoS meeting, in support of the CAO's request for the Hemming Morse audit and allowed the statement "*...will help provide clarity to the cash balancing situation that is holding up the 2010-11 audit by Galena*" in the CAO's Board letter to stand as truthful and accurate;
- b. has not completed the mandated outside audit (Single Audit) as required by the State Controller and Federal Government for fiscal year ending June 2011 which precludes the County from receiving certain road funds and other grants from State and Federal programs;
- c. unilaterally implemented a number of payroll, accounting and procedural changes without communication or input from other affected departments;
- d. recruited and hired an Assistant Auditor and Deputy Auditor;
- e. currently has a fully staffed office;
- f. has available, on a part time basis, the knowledgeable and experienced retired Assistant Auditor;
- g. at times lacks consistency in interactions with subordinates and peers;
- h. conducted an informal review of the Treasurer's cash handling procedures in September, 2012, and identified several deficient and inadequate control practices;
- i. failed to present to BoS the findings of 2009 and 2010 outside audits.

3. The Madera County Treasurer-Tax Collector:

- a. implemented some of the changes recommended in the review conducted by the Auditor-Controller;
- b. has been aware that the annual Single Audits for fiscal years ending 2008, 2009 and 2010, conducted by the outside audit firm of Caporicci & Lawson, Inc. identified some "internal control deficiencies";
- c. responded to the 2008 audit and has not been requested to respond to the 2009 and 2010 audits;
- d. utilizes a Cash Accounting System which is not integrated with the County IFAS general ledger;
- e. exercised check writing authority on investment accounts;
- f. repeatedly requested cooperation from the Auditor and CAO to assist in resolving issues.

4. The Madera County Board of Supervisors:

- a. on February 26, 2013, approved a Hemming Morse audit to be conducted of the Treasurer-Tax Collector's office;
- b. failed to direct corrective action be taken to solve cash account issues after being provided detailed recommendations from previous outside audits;
- c. allowed the delay for more than one year of the filing of the outside audit (Single Audit) without determining the actual cause of this failure;
- d. failed to request findings of the 2009 and 2010 audits;
- e. failed to take effective action to eliminate the friction which exists between the Treasurer, the CAO and the Auditor-Controller.

Findings:

1. The Madera County Administrative Officer:

- a. at times uses intimidation and threats to obtain compliance with his directions;
- b. demonstrates a need to improve leadership skills required by his position;
- c. has negatively affected the morale and motivation of some employees with whom he interfaces;
- d. shows favoritism in dealing with department heads and employees;
- e. provided inaccurate and incomplete information to the BoS regarding the delay of filing the 2011 Single Audit;
- f. needs to promote cooperation between finance and administrative departments;
- g. publicly demonstrated animosity and a lack of professionalism toward the Treasurer-Tax Collector and Clerk-Recorder;
- h. has not been following Board direction to keep Treasurer-Tax Collector informed of the Hemming Morse audit details (status, schedule and scope of work).

2. The Madera County appointed Auditor-Controller:

- a. is sufficiently staffed to accomplish the work of the department;
- b. made some improvements in the operation of the department;
- c. needs to become less autocratic and communicate more effectively with peers;
- d. made procedural changes without notice to affected departments;
- e. mislead the BoS by stating that the delay in filing the Single Audit was due to the Cash Account Balance issue in the Treasurer's Department, when in fact, there were other unrelated accounting issues in the Auditor's office that delayed the audit;
- f. has taken no action to incorporate the cash accounting process with the County general ledger.

3. The Madera County Treasurer-Tax Collector:

- a. was inaccurately and unfairly blamed for delaying the Single Audit by the CAO and Auditor-Controller;
- b. maintains the County's cash accounts using a standard system employed by many other counties;
- c. does not participate as a member of the County finance and administrative team due to the open hostility of the CAO;
- d. has not exercised best practices in the cash handling procedures, exposing the office to liability, criticism and suspicion.

4. The Madera County Board of Supervisors (BoS):

- a. was not adequately informed nor motivated to resolve the outside audits (Single Audit) issues which resulted in loss of revenue in excess of three million dollars;
- b. failed to oversee corrective action to outside audits (Single Audit) findings;
- c. does not recognize the potential liability resulting from the CAO's actions as well as the loss of productivity due to the contentious work environment fostered by the CAO;
- d. avoids responsibility by allowing the CAO to exceed his authority;
- e. provides minimal oversight of the financial and administrative County functions.

Recommendations:

1. The BoS meet with the CAO to;
 - a. specifically delineate the extent of his authority;
 - b. reduce the liability exposure of the County by directing the CAO to curtail his aggressive and intimidating management practices;
 - c. direct the CAO to create an "open" county management team promoting an exchange of ideas so that all department heads feel free to express their opinion without repercussions.

2. Board members encourage department heads to meet with them independently on important departmental issues allowing for a more direct exchange of information.
3. The Treasurer-Tax Collector should request that the cash handling procedures be integrated with the County IFAS general ledger system as soon as possible to help alleviate confusion and misinterpretation of cash balancing problems.
4. The BoS meet with the Auditor-Controller and the Treasurer-Tax Collector to jointly develop:
 - a. a plan to eliminate the problem of cash handling and balancing in the Treasurer-Tax Collector's Office;
 - b. a Memorandum of Understanding (MOU) stating the goals, objectives, schedule of implementation and a commitment of cooperation.
5. The Auditor-Controller expand personal knowledge of County Government organizational and fiscal practices.
6. As a best practice, the Treasurer-Tax Collector relinquish all check writing authority to the Auditor-Controller.
7. The Treasurer-Tax Collector actively participate in the finance and administrative management team.
8. The BoS direct the Auditor-Controller brief them on details of 2009 and 2010 outside audit findings and plans to take corrective action. Then, direct regular progress reports.
9. The BoS focus its attention on resolving the recurring accounting issues related to the timely completion of the Single Audit and provide all necessary resources to facilitate a resolution.
10. The BoS, the CAO, the Auditor-Controller and the Treasurer-Tax Collector strive to develop an effective working relationship to better serve the taxpayers of Madera County.

Respondents:

Madera County Board of Supervisors
200 West 4th Street
Madera, CA 93637

Madera County Administrator Office
200 West 4th Street
Madera, CA 93637

Madera County Auditor-Controller
200 West 4th Street
Madera, CA 93637

Madera County Treasurer-Tax Collector
200 West 4th Street
Madera, CA 93637