

BOARD OF SUPERVISORS COUNTY OF MADERA

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Members of the Board
Brett Frazier, District 1
David Rogers, District 2
Robert L. Poythress, District 3
Leticia Gonzalez, District 4
Tom Wheeler, District 5

AGENDA ITEM SUBMITTAL

March 16, 2021

Chairman Robert L. Poythress

DEPARTMENT County Administration Department		DEPARTMENT CONTACT Yvette Gomez 559-675-7703		AGENDA ITEM 5.L Consent Calendar	
SUBJECT: Response to Grand Jury Report		REQUIRED VOTE: 3/5 Votes Required	DOC. ID NUMBER 7152	DATE REC'D 11/20/2019	
STRATEGIC FOCUS AREA(S): Focus Area Not Defined (Explain)					
<u>For Clerk of the Board's Office Use Only</u>					
BOARD'S ACTION:					
RESULT: APPROVED BY CONSENT VOTE [UNANIMOUS] MOVER: Tom Wheeler, Chairman Pro Tem SECONDER: Brett Frazier, Supervisor - District No. 1 AYES: Frazier, Rogers, Poythress, Gonzalez, Wheeler					
Is this item Budgeted? No Will this item require additional personnel? No Previous Relevant Board Actions: PowerPoint/Supporting Documents: Other/Misc.			DOCUMENT NO(S).		

RECOMMENDED ACTIONS:

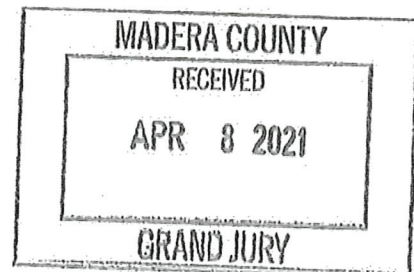
Consideration of approval of the response to the 2019-2020 Grand Jury Report entitled "Madera County and City of Madera: Public Servants or Self Serving".

DISCUSSION / FISCAL IMPACT / STRATEGIC FOCUS:

N/A

ATTACHMENTS

1. Grand Jury Report - Madera County City Public Servants or Self Serving 12-21-2020
2. Grand Jury Response 2019-2020 - Madera County and City of Madera-Public Servants





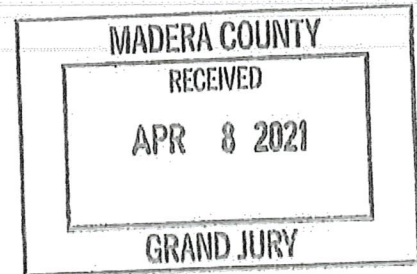
MEMBERS OF THE BOARD

BRETT FRAZIER, District No. 1
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LETICIA GONZALEZ, District No. 4
TOM WHEELER, District No. 5

KAREN POGUE, Chief Clerk of the Board

March 21, 2021

The Honorable Michael Jurkovich
Supervising Judge of the Grand Jury
Madera County Superior Court
200 S. G Street
Madera, CA 93637



Subject: Response to the 2019-20 Grand Jury Report entitled "Madera County and City of Madera: Public Servants or Self Serving"

Honorable Judge Jurkovich:

Pursuant to California Penal Code 933.05, the Madera County Board of Supervisors submits this response to the findings and recommendations in the 2019-20 Madera County Grand Jury report entitled "Madera County and City of Madera: Public Servants or Self Serving" See Attachment #1.

The following are the Grand Jury's findings and recommendations and the Board of Supervisors' responses to Part I of the report, "Madera County Administrative Officer (CAO) Management Practices":

Finding 1:

The MCGJ finds that the Board of Supervisors committed nonfeasance by not taking appropriate action on a timely basis on the ongoing workplace harassment complaints and issues.

Response

Respondent disagrees with the finding per California Penal Code 933.05 (a) (2). As set forth in the County Policy and Guidelines on Discrimination and Harassment (policy), the Board of Supervisors believes that all workers are entitled to work in an environment free of discrimination, harassment and abusive conduct. Consistent with County policy, all complaints are investigated in a fair, complete, and timely manner and if determined to have merit, appropriate disciplinary measures are taken. All complaints received during the period which is the subject of the Grand Jury's report were addressed consistent with County policy including any complaints regarding the former CAO.

Finding 2:

The MCGJ finds that the CAO's \$306,000 salary is excessive commensurate to the size of the County population and budget.



Response

Respondent disagrees with the finding per California Penal Code 933.05 (a) (2). The finding is misleading in that the figure represented as salary is not delineated in terms of base salary and benefits. As to whether the then CAO's salary was reasonable under the circumstances, it should be noted that the County conducted a total compensation survey during the Spring of 2015, the results of which were presented to the Board of Supervisors at its August 25, 2015 meeting. The purpose of the survey was to determine how competitive the County was within its labor market of ten county agencies. Among the one hundred thirty-nine (139) classifications studied was that of CAO. The base salary survey results for the classification of CAO found the Madera County salary associated with the position was 13.39% below the labor market median. At the January 26, 2016 Board of Supervisors meeting, the Board approved implementation of the survey salary recommendations effective July 1, 2016 for approximately fifty (50) elected and appointed department heads and unrepresented employees, including the CAO. Subsequently, the County conducted a follow up survey in 2018 revisiting the classifications and labor market which was the subject of the 2015 study. Results of the follow up survey indicated that the CAO position was 5% below the labor market median. Since the reporting of the 2018 follow up survey, the County has conducted an additional survey, the results of which were presented to the Board at its September 15, 2020 meeting. Salary data derived from labor market comparisons as of June 15, 2020 indicate that the CAO position is 4% below the labor market median at the midpoint of the salary range.

Finding 3:

The MCGJ finds that the CAO's severance of \$113,168.34 was paid by county taxpayers.

Response

Respondent partially disagrees with the finding per California Penal Code 933.05 (a) (2). The finding is an oversimplification of the complexities of funding County operations. The County Administrative Office expenditures are part of the County's total administrative overhead cost and are funded by various state, federal and local funding sources. Based on the historical net County cost percentage of administrative overhead costs, approximately \$39,608 of the total severance amount was funded through local taxes. This impact was fully offset with salary savings in the FY 2019-20 budget by the delay in hiring of a permanent CAO.

Finding 4:

The MCGJ finds that the Board of Supervisors negligent in failing to address the ten years of harassment thus allowing the unhealthy work environment to persist.

Response

Respondent disagrees with the finding per California Penal Code 933.05 (a) (2). As previously stated, the Board of Supervisors is committed to fostering an environment free of workplace discrimination and harassment. Consistent with County policy, all complaints of discrimination or harassment are acted upon promptly. Fair and timely investigations are conducted and when appropriate, disciplinary measures are taken. The Grand Jury's narrow presentation of the facts aside, the Board's actions in this regard have been consistently applied prior to, and since the allegations that are the subject of the report.

Recommendation 1:

The MCGJ recommends that the Board of Supervisors immediately address, review, and curtail all abuses of power in the county workplace by working with the County Human Resources Director to ensure that adopted Policies and Procedure protocols are enforced.

Response

The recommendation will not be implemented because it is not warranted. As previously stated, harassment, discrimination and abuse are not tolerated by the Board of Supervisors and any complaints of that nature are investigated and acted upon swiftly consistent with County policy.

Recommendation 2:

The MCGJ recommends that the County Director of Human Resources immediately conduct compensation research for the CAO position as it relates to counties and budgets similar in size to Madera County.

Response

The recommendation has been implemented. As previously discussed, the County, through the Department of Human Resources, recently concluded a total compensation study of one hundred thirty-two (132) benchmark positions including CAO. The results of the study were presented to the Board at its September 15, 2020 meeting.

Recommendation 3:

The MCGJ recommends that the Board of Supervisors immediately document and provide a rationale for the severance package and payout made to the CAO.

Response

The recommendation will not be implemented because it is not warranted or is not reasonable. The Grand Jury's report provides details from Madera County Contract No. 11539-19, Resignation Agreement and Release. The material terms of the agreement are contained in the excerpts provided in the report.

Recommendation 4:

The MCGJ recommends that immediately changes are made to Resolution No. 2019-128 "Policy and Guidelines on Discrimination and Harassment," adopted by Madera County Board of Supervisors August 20, 2019, to enable employees to report issues to the Human Resources Department without fear of retribution.

Response

The recommendation has not yet been implemented but will be implemented in the future. The policy will be updated to reflect the current organizational structure within the Department of Human Resources.

The following are the Grand Jury's findings and recommendations and the Board of Supervisors' responses to Part II of the report, "Coarsegold Rezoning":

Finding 1:

The MCGJ finds that the Board of Supervisors' behavior towards the public and the constituents is contrary to the National Association of Counties' Code of Ethics.

Response

Respondent disagrees with the finding per California Penal Code 933.05 (a) (2). The Grand Jury's report fails to specify exactly what conduct on the part of the Board it finds in violation of the National Association of Counties' Code of Ethics nor does it specify what exact provision of the Code is in violation. Further, the Grand Jury's methodology fails to include the National Association of Counties' Code of Ethics as a referenced document and efforts to locate the document have been unsuccessful.

Finding 2:

The MCGJ finds that elected officials of the Board of Supervisors acted outside the Public Hearing process and may have violated the Brown Act.

Response

Respondent disagrees with the finding per California Penal Code 933.05 (a) (2). The Grand Jury's report fails to describe in what manner it believes that the Board of Supervisors may have violated the Brown Act.

Finding 3:

The MCGJ finds that the Board of Supervisors acted negligently by showing favoritism to the property owner requesting the rezoning and ignoring the recommendations of the regulatory agencies and aggrieved tax paying property owners.

Response

Respondent disagrees with the finding per California Penal Code 933.05 (a) (2). There does not appear to be any evidence of favoritism described in the Grand Jury's report, nor was it apparent upon review of the video of the June 22, 2009 Board of Supervisors Special Meeting. To the contrary, as noted by the Grand Jury, this property owner has seen 6 separate applications for land use entitlement denied by the Board.

Recommendation 1:

The MCGJ recommends that the Board of Supervisors immediately adhere to and comply with the National Association of Counties' Code of Ethics that states that well-functioning counties form the basis for the people's trust in government.

Response

The recommendation will not be implemented because it is not warranted or is not reasonable. The recommendation is unnecessary. The Board of Supervisors is well aware of its duty to act, both collectively and individually, in conformity with all applicable rules, regulations, and policies related to ethical conduct.

Recommendation 2:

The MCGJ recommends that all Board of Supervisor members read and follow the Brown Act as required by law.

Response

The recommendation will not be implemented because it is not warranted or is not reasonable. The recommendation is unnecessary. The Board of Supervisors is fully committed to adherence to all provisions of the Brown Act.

Recommendation 3:

The MCGJ recommends that immediately the Board of Supervisors make a final decision on this rezoning request and close the request.

Response

The recommendation will not be implemented because it is not warranted or is not reasonable. Under separate cover, The Chief of Development Services has responded to this recommendation and stated: *"Land Use Planning Law mandates and provides for an individual to apply for a change in land use on their personal property. The Board has made a final decision of denial on the latest land use entitlement application. The property owner may elect to pay for another change in land use through an entitlement application and proceed through the process laid out in law if they so choose. There is no cost to the taxpayers of Madera County, our application costs recover the full costs in the processing of individual land use entitlements."*

The response of the Chief of Development Services to the above recommendation is considered appropriate and is submitted as the Board of Supervisors' response.

The following are the Board of Supervisors' responses to the Grand Jury's findings 1 and 2 and recommendations 1, 2, 3, 4 and 5 to Part III of the report, "Madera Municipal Airport":

Finding 1:

The MCGJ finds that the City of Madera and the County of Madera did not provide requested documentation

Response

Respondent disagrees with the finding per California Penal Code 933.05 (a) (2). Although the Grand Jury's report references "multiple requests of involved parties," the Board of Supervisors is unaware of any requests for documentation. Without information detailing specific requests, the Board is unable to adequately respond to the finding.

Finding 2:

The MCGJ finds that the City of Madera and the County of Madera did not provide adequate Public Notice for the closure of Runway 8-26.

Response

Respondent disagrees with the finding per California Penal Code 933.05 (a) (2). Although the finding implies some level of responsibility to the County to provide notice of the closure of Runway 8-26, the finding concerns a matter which is not under the control of the Board of Supervisors.

Recommendation 1:

The MCGJ recommends that immediately the City of Madera and the County of Madera adhere to requests for public documents when requested by the Madera County Grand Jury.

Response

The recommendation has been implemented. The County of Madera appreciates the important role of the Grand Jury and is, and has always been, committed to responding promptly to inquiries to assist the Grand Jury in carrying out its statutory duties.

Recommendation 2:

The MCGJ recommends that immediately the City of Madera and the County of Madera adhere to the provisions of the Brown Act to provide clear, fair, and unambiguous Public Notice.

Response

The recommendation will not be implemented because it is not warranted or is not reasonable. The recommendation is unnecessary. The Board of Supervisors is fully committed to adherence to all provisions of the Brown Act.

Recommendation 3:

The MCGJ recommends that immediately the City of Madera and the County of Madera refrain from carelessly spending taxpayer money.

Response

The recommendation will not be implemented because it is not warranted or is not reasonable. The recommendation is unnecessary. The Board of Supervisors is certainly aware of its obligation to safeguard the interests of the taxpayers of Madera County and will continue to operate with full transparency and accountability to the taxpayers.

Recommendation 4:

The MCGJ recommends that immediately the City of Madera and the County of Madera maintain records and avail the city and county of renewable funding opportunities.

Response

The recommendation has been implemented. The County of Madera maintains all records in accordance with its Record Retention Schedule and always seeks to identify alternate funding opportunities.

Recommendation 5:

The MCGJ recommends that immediately the City of Madera and the County of Madera entertain the financial investment interests of private entities.

Response

The recommendation requires further analysis. Analysis of the recommended action and the County's role in such, can only be considered on a fact specific basis.

The Board acknowledges the Grand Jury's review and time involved in this matter and appreciates the opportunity to respond to the findings and recommendations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert L. Poythress".

Robert L. Poythress
Chairman of the Board of Supervisors