Point Arena City Government

A review of Point Arena (City) city government and related issues found that the City is well governed for the most part with a few areas of concern to be addressed.

Method of Investigation

The Grand Jury interviewed elected officials and employees of City government, private citizens, former City employees, former elected officials, citizens involved in private business, employees of the local school district, employees and volunteers of the Redwood Coast Fire District, and local law enforcement. The Grand Jury attended City Council meetings and reviewed the minutes of 2000-2001 City Council and Planning Commission meetings. The Grand Jury inspected the wastewater treatment facilities, the Point Arena Pier facilities, the emergency services facilities, the petroleum recycling facilities and city yard facilities, city schools, fire protection facilities, and the private water company facilities. The Grand Jury reviewed the latest draft of the City's General Plan, City zoning ordinances, the most recent outside financial audit of City government, employee policies, procedures, and job descriptions, the City's revolving loan fund policies and procedures, and emergency services procedures.

Background Information

Point Arena is an incorporated city. City Government consists of an elected five member City Council that meets monthly. The City Council acts as the Planning

Commission as well. The City Council elects one of its members as Mayor. Registered voters number somewhat less than 300. There are eight salaried employees: three part time Pier Facilities Managers, a Maintenance Supervisor responsible for street and infrastructure maintenance, a city clerk/administrator who acts as planning director, a Waste Water Treatment Plant Supervisor, a combination Street Maintenance Person/Used Oil Grant Director, and a Grant Administrator who acts as Emergency Services Director. Legal services to the City are provided by a contracted "city attorney." The City contracts with the County Sheriff to provide three full-time officers. The City contracts for engineering services with a private firm. The City contracts for fire inspection and related plan checks with the Fort Bragg Fire Marshal. The City has established a system of commissions dealing with various areas of concern of City government. These commissions consist of one City Council member and one or more salaried employees, for example, the Pier Commission. The City manages two revolving loan funds that are offered to citizens to promote real estate and business development including the affordable/low income housing. The City obtained oil pollution cleanup grant money for "Arena Rescue", which consists of a dedicated rescue boat to be used in emergencies and assists the Coast Guard in emergency services. City revenue is generated from secured taxes, transient occupancy tax, and pier facility services and product tax. Pier revenue is generated by boat launching, product cranes, parking fees, and product tax from private fish product companies. A privately owned water company supplies water to the City for domestic use and fire protection. The Redwood Coast Fire District headquartered in Manchester provides fire and emergency services. The City has developed a disaster plan in coordination with the Emergency Services Authority in Ukiah. The City is involved in Safe Passages, an externally funded program to provide infrastructure for safe transit of children to and from school.

Findings

1. The City is operating fiscally in the black, but City administration has expressed concern that the current recession and reduction in State revenue may present problems. The product tax from private fish companies has dwindled in recent years primarily from the reduction in the urchin fishery.

2. The City manages revolving loan funds in accordance with published guidelines. The City uses the self-sustaining funds for private enterprise and affordable housing.

3. City ordinances are not codified in a meaningful way. The City has established a goal to codify ordinances, but has not had the time or manpower to accomplish this goal.

4. The City is *not* in compliance with the affordable housing element of its General Plan. According to the General Plan, affordable housing development in the City is hampered by price and availability of real estate, land use controls, building codes, local permit processing, various special fees, environmental/site condition studies, and limitations on density.

5. The Grand Jury heard testimony that water pressure and capacity for fire protection to the southern end of the City in the cove area are not adequate.

6. The Grand Jury heard testimony that emergency equipment access to the Wharf Master's Inn and Coast Guard House bed and breakfast is not adequate.

7. The City has recently adopted a policy for fire safety plan checks. The policy does not include systematic fire safety checks of existing buildings and businesses accessed by the public.

8. Policies and procedures for City elected officials, employees, commissions, and citizen's advisory groups are not complete or organized for easy reference.

9. City Council and Planning Commission meetings reviewed and attended were in accordance with Brown Act requirements. However, citizens wishing to express concerns on various issues are allowed only five minutes.

10. Emergency services procedures have been implemented, but the City lacks a dedicated shelter. The City is in continuous collaboration with the Emergency Services Authority to improve the effectiveness of the emergency services program.

11. The rescue boat for Arena Rescue is inoperative because it needs new engines. The City is exploring the possibility of grants for new engines. At present the rescue boat is a depreciating asset because of lack of maintenance and damage from exposure to the elements.

12. Recently a member of the City Council resigned his position and immediately took a salaried position with the City. Although this did not violate the present policies and procedures of the City, it gave the appearance of conflict of interest.

13. The City General Plan lists a goal to establish a capital improvement plan.

14. Areas within the City limits are *not* totally in compliance with the Americans with Disabilities Act Comprehensive Access Plan. Violations include lack of handicap or wheelchair access, parking, and signs.

Responses to Findings 1 through 14

No legal response received by deadline.

Recommendations

A. The City continue to direct revolving loan funds toward fulfilling the affordable housing element of the General Plan and supporting business enterprise that will provide revenue to the City. (Findings 1, 4)

> **Response (City Council):** The recommendation has already been implemented. The City's revolving loan fund was started in 1986 with the securing of housing rehabilitation funds from Community Development Block Grant funds. As funds, including interest, from the original loans began to build, the fund then expanded to include business loans, which has been the dominant focus for the past 10 years. The loan fund continues to be active, with two recent applications for housing rehabilitation. The City Council anticipates that the fund will continue to be made available for small businesses and for housing rehabilitation, as has been the case.

B. The City codify and organize ordinances for easy reference. The city consider hiring an outside contractor to accomplish this task. (Finding 3)

> **Response (City Council):** The recommendation will be implemented in the future. The City has budgeted for a portion of the cost to codify ordinances and resolutions and will budget more funds to do so in the future. The project has not yet begun but is anticipated take be initiated and completed within a two-year time frame. (sic) Completion date: June 30, 2004.

C. The City and the Redwood Coast Fire District contract with an external investigator or State Fire Marshal to investigate and report on adequate fire protection water in the southern part of the City and fire equipment access to the cove area. (Findings 5, 6)

> **Response (City Council):** The recommendation has already been implemented. The City of Point Arena and the Redwood Coast Fire Protection District ("RCFPD") are cognizant of the water-availability issues at the Arena Cove. In addition to their fleet of fire engines, the RCFPD has just purchased a 2,500-gallon water tender for use in fighting fires. They are also outfitted with suction devices to be able to draw water from the Pacific Ocean. The City Council maintains a tight reign on fire suppression safety requirements when discretionary permits are applied for (i.e. coastal development and conditional use permits). Minimum water storage, in accordance with State Fire Code standards, is required of developments that can't be adequately served by City water lines. An alternative option is to seek an upgrade for the water lines that serve the Arena Cove. The water company is privately owned; and, implementing this option would take

considerable time and money and water distribution system upgrades may be necessary.

Amended Response (City Council) January 30, 2003: The recommendation requires further analysis. The City Council is meeting in a joint session with the Redwood Coast Fire Protection District, their fire code plan check contractor, and affected and interested property owners. They will review the existing status of fire suppression matters in that area of the Arena Cove, with a focus on understanding what, if anything, should be required beyond what is already in place. The joint meeting will be held on February 19, 2003.

D. The City in conjunction with the Redwood Coast Fire District consider adoption of periodic fire safety inspection of buildings and businesses frequented by the public. (Finding 7)

Response (City Council): The recommendation will be implemented in the future. The RCFPD recognizes its role in fire prevention and will begin a program of reviewing buildings and businesses that are accessible by the public no later December 31, 2003. (sic)

E. The City consider ISO (International Organization of Standardization) certification of the fire safety of the City in that it would point out any discrepancies and possibly allow a lowering of fire insurance rates. (Findings 5, 6, 7)

Response (City Council): The recommendation has already been implemented. The RCFPD has retrieved ISO rating information, has requested a rating review, and has been reviewed. Understanding the components that contribute to a reduced (better) ISO rating, the District is steadily working towards that end (i.e. standardized training with supporting documentation, regular water testing, increased water availability, etc.)

F. The City complete and gather into one compendium policies and procedures for City elected officials, employees, commissions and citizen advisory groups. (Finding 8)

Response (City Council): The recommendation will be implemented in the future. This will be accomplished by June 30, 2004, with the codification of ordinances (see B above).

G. The City Council allow more flexible time for public comment during meetings. To allow more time for public comment, the City consider a separate Planning Commission meeting on a different day than the City Council meeting. (Finding 9)

Response (City Council): This recommendation will not be implemented because it is unwarranted. The City Council sets a five-minute limitation on public comment under Privilege of the Floor for items not appearing on the Agenda. This limitation is not often adhered to and is used as a tool to maintain order and structure if necessary. Plus, the public is able to comment on Agenda items as they are discussed on the Agenda. Written comments from the public are also encouraged. The Council did have a separate Planning Commission but abandoned it after a five-year period because it was becoming increasingly difficult to find people to serve on both the City Council and the Planning Commission. It is a small town and those willing to donate time to serve on boards are few.

H. The City continue its efforts to enhance the emergency services program by dialog with the Emergency Services Authority in Ukiah. The City address issue of establishing and equipping an emergency shelter. (Finding 10)

Response (City Council): This recommendation has already been implemented. The VFW Hall is used as a council meeting Chamber, a court, and as an emergency operation center. During an emergency, it will become the communication point for disaster/rescue related activity. It is outfitted with a generator, phone lines, emergency radios, etc. Separate from this facility, the Point Arena High School gymnasium is designated as a Red Cross emergency shelter.

I. The City decide either to continue its efforts to reinstate the Arena Rescue boat to operational status, or discontinue the program and sell the boat. The Grand Jury encourages the City to give protection of coastal resources from oil spills a high priority in making its decision. (Finding 11)

Response (City Council): This recommendation has already been implemented. The City recently received grant funds to upgrade the rescue boat. It has now been upgraded and is now back in operation.

J. The City adopt a minimum time period after leaving office to restrict City elected officials in regard to accepting City employment. (Finding 12)

Response (City Council): This recommendation will be implemented in the future. A policy will be adopted no later than December 31, 2002.

K. The City establish a capital improvement program in accordance with its General Plan goal. (Finding 13)

Response (City Council): This policy will not be implemented because it is unwarranted. The City Council has developed a transportation plan, the wastewater treatment plant has a capital improvements program to ensure its future viability and the pier facility doesn't generate enough revenue to provide for a complete capital improvements schedule. Outside funding must be sought for big-ticket capital improvement items at the pier facility. The California Department of Boating and Waterways has been contacted for possible funding for hoist upgrades.

L. The city comply with the Americans with Disabilities Act Comprehensive Access Plan. (Finding 14)

Response (City Council): This recommendation has been partially implemented. The recommendation is vague. However, the City is currently working to install new sidewalks on a couple of residential streets that currently don't have sidewalks. The City leases the City Hall and chambers from the County of Mendocino. Parking along Highway One (Main Street) is within the California Department of Transportation's jurisdiction. The Pier Facility is handicapped accessible.

Comment

The Grand Jury commends the city government and citizenry of Point Arena on its completion and adoption of its General Plan, its efforts to establish its emergency services program, its successful petroleum and solid waste recycling program, its support of the Safe Passages program, and its sound fiscal management. The Grand Jury applauds the dedication of the virtually unpaid elected officials of the city and the dedication of its salaried employees as well.

Misinformation and lack of communication between various factions of the citizenry and City government is endemic. The public does not regularly attend City Council meetings. The City Council in the past has had to appoint members because of lack of interest. The Grand Jury would remind the citizenry of Point Arena that "you get the government you deserve."

Supplemental Comments

The Grand Jury attended the special joint meeting of the City of Point Arena and the Redwood Coast Fire Protection District on February 19, 2003 in which Point Arena considered the following positive steps to begin resolving the public safety issues in the Arena cove area.

(1) The owners of the Wharfmaster's Inn and Coast Guard House B&B agreed to upgrade their water storage to approximately 20,000 gallons with fire equipment access and hose connection access.

(2) The City of Point Arena and the owners of the aforementioned lodging establishments agreed to improve the secondary vehicle access to the Wharfmaster's Inn.

(3) The City of Point arena agreed to upgrade the main water transmission line supplying the Arena cove area, to assure adequate water pressure and volume. The plans are to be completed by August 19, 2003.

(4) The City of Point Arena is to aggressively procure funding to complete the new water line.

MENDOCINO COUNTY
RISK MANAGEMENT DIVISION

As a part of the Grand Jury's routine oversight responsibilities as mandated by the California Penal Code, the 2002-2003 Grand Jury selected the Risk Management Division of the County of Mendocino Administrative Office. The primary, but not exclusive, focus of this review was to survey the various insurance and reinsurance programs managed by the Risk Management Office, review related and supporting programs, and look at the adverse impact of budgetary constraints on all areas of operations including staffing. Special emphasis was given to the General Liability Self-Insured Program. The Grand Jury did not review the administration of the Health Insurance Program.

METHODS OF INVESTIGATION

In accomplishing it's review of the County Risk Management Division, the Grand Jury interviewed the County Risk Manager, The County Administrator, County Counsel, and selected Risk Management Staff.

In addition, the Grand Jury reviewed the February 2002 County of Mendocino Actuarial Review of the Self Insured Liability Program, the December 2002 County of Mendocino Actuarial Review of the Self-Insured Liability Program (Forecast for Policy Year 2003-2004), the most recent Liability Claim Audit of July 8, 2000, the most recent Budget Narrative, the March 2002 Workers'

Compensation Claims Audit, the Return to Work Program, Policy Notebook, Property Schedule/Valuations Notebook, (CSAC) Insurance Program Notebook, CSAC Broker Activity Report, CSAC Excess Insurance Authority Board of Directors Meeting Agenda Book, CSAC Excess Insurance Authority Executive Committee Tentative Agenda Book, The Mendocino County Safety Manual, The 2002-2003 Division Budget, and applicable Mendocino County Ordinances.

BACKGROUND INFORMATION

The Risk Management Division is currently staffed with 6 persons including, the Risk Manager, one part time and one full time Safety Officers, a Return to Work Coordinator, a Safety Coordinator, and, a Benefit Specialist. Two positions remain vacant due to lack of funding. They are the Risk Management Analyst and the Staff Assistant I. The Risk Manager is appointed by the County Administrator, and reports to the County Administrator through an assigned liaison staff member at the County Administrators Office.

The “Mission Statement” outlines the general functions of this division in saying, “The Risk Management Division of the County of Mendocino Administrative Office shall identify and measure all risks (uncertainty of loss) of the County of Mendocino by developing and implementing appropriate techniques for assessing and resolving these exposures via risk assumption, risk reduction, risk retention, risk transfer or the purchase of insurance”.

FINDINGS

1. The Risk Management Division is responsible for many insurance and related programs and functions that have the ability to affect insurance related expenses to the County. A sampling of the many programs and functions includes:

a. Establishing and monitoring property and casualty insurance and reinsurance programs.

b. Monitoring claims activity, including guiding the claims handling process either "in-house" (County Counsel) or by retained outside counsel, and settling claims within prescribed authority.

c. Managing the Workers' Compensation Program including the Return to Work Program.

d. Administering the Health Insurance Program for County Employees.

e. Safety and loss prevention services, including safety training.

f. DMV State Poll Notice Program including Defensive Drivers Training

2. With two positions remaining vacant due to lack of funding, this office is under-staffed. Additionally, recent staff absences due to medical and maternity leave created a severe staffing shortage in which important services were curtailed. Although essential services were maintained, during these absences there was a discontinuation of loss prevention services and training, discontinuation of the creation of the modified duty program, closure of the Risk Management Department to County employees on Fridays, limited telephone hours, no "front counter" services, and limited participation in the RCRC health plan creation.

3. Because of the staff shortages, key Risk Management staff members frequently are distracted from their primary functions to complete secretarial tasks. For example, a Departmental Audit revealed the following percentages of time that were devoted to secretarial functions by various staff specialists.

a. Risk Manager - 10%

b. Return to Work Coordinator - 15%

c. Safety Officers - 8%

d. Safety Coordinator - 15%

e. Benefit Specialist - 35%

Clearly, this does not represent the optimal utilization of the specialized staff members.

4. The most recent "Liability Claim Audit" was completed in July of 2000. While this audit did not disclose any significant problems, the dynamic nature of the claims inventory, and new claims activity, dictates more frequent claims audits.

5. The Risk Management Division is annually "charged" a budgetary amount of approximately $135,000 for legal and claims services that are to be provided by the County Counsel's Office, (and budgets an additional $7,500 for additional claims expenses). The manual system used by the County Counsel's office for tracking hours (and thus substantiating or developing budgetary charges), is cumbersome and imprecise.

6. While not a specific topic of review, the Grand Jury heard testimony that healthcare costs are likely to increase annually by double digits for the short to intermediate term.

7. A cursory review of the Liability Large Claims Inventory indicates no unexpected patterns of claims activity either as to type of claim, or expected valuations.

8. The County now purchases a fully insured Workers' Compensation Program with CSAC- Excess Insurance Authority. This program appears to be functioning reasonably well although the renewal premium has been increased significantly.

9. The County is self-insured for the first $200,000 of loss (each occurrence) within the Liability Insurance Program. This Self-Insurance Program was initiated in March of 1978.

10. The County currently buys total liability policy limits of $25,000,000. Additional policy limits are available at generally favorable rates. One quotation, now out of date, provided an additional $10,000,000 in policy limits for $6,750.

11. Mendocino County Ordinance Chapter 5.62 section 5.62.010 provides for the establishment, by the County Auditor, of "a separate interest-bearing trust fund entitled: "General Liability Trust Fund." (Ord. N. 3132, adopted 1978.) This Trust Fund is specifically designed as the depository for monies that are to be set aside primarily for incurred losses and related loss and adjustment expenses, and to include "incurred but not reported losses".

Section §5.62.040 (A) Further provides that "The balance of the General Liability Trust Fund shall remain actuarially sound at all times and at no less than the seventy percent (70%) confidence level".

The most recent Actuarial Review of the Self-Insured Liability Program for the 2003-2004 Policy Year provides the following estimates of loss and loss adjustment expense costs for the County.

The costs of claims and adjustment expenses incurred in the 2003-2004 program year are projected to be $838,000. This includes both allocated loss adjustment expenses (ALAE), and unallocated adjustment expenses (ULAE), and includes claims that will be known (reported) during the program year as well as losses incurred but not reported (IBNR).

Allocated loss adjustment expenses are associated with the settlement of individual and specific claims, while unallocated loss adjustment expenses are associated with all other costs that are incurred in the administration and settlement of the claims inventory, but are not attributed to a specific loss.

IBNR represents the cost of losses that will emanate from occurrences during the program year, but which may well not be known for an undetermined number of years in the future.

Additionally, the Actuarial Study estimates that as of June 30, 2003, the program's liability for outstanding claims (including ALAE, ULAE, and IBNR) will be $1,603,000. The actuary (Bickmore Risk Services) further estimates the program assets at a negative ($199,000), and attributes the negative assets are "due to the fact that the program is operated on a "pay as you go" basis. **The Board of Supervisors has clearly failed to comply with County Ordinance §5.62.040 (A) (requiring funding at the 70% "confidence level") which (as of June 30, 2003), as noted in the Actuarial Report, requires that approximately $2,014,000 be contributed to the General Liability Trust Fund.**

The (Bickmore) Report further points out that Governmental Accounting Standards Board (GASB) Statement #10 “requires the County to accrue a liability on its financial statements for the ultimate cost of claims and expenses associated with all reported and unreported claims, including ALAE and ULAE”. The report further states, “The $1,603,000 estimate (of the programs liability for claims and expenses as of June 30,2003) is the minimum liability to be booked by the County in accordance with Governmental Accounting Standards Board Statement #10".

The Grand Jury acknowledges that the above $2,014,000 is not a catastrophic financial shortfall, but does represent non-compliance with the County Ordinance, and is not a sound business practice which would dictate the accrual of funds (reserves for losses) as they are incurred rather then the current “pay as you go” practice.

12. The Bickmore Actuarial Report also recommends a plan for amortizing the June 30, 2003 funding deficit over a five year period (pages 2 & 3).

13. The Risk Manager is currently reviewing a proposal to fully insure the liability program in excess of a $10,000 self-insured retention. The proposal is from the CSAC Excess Insurance Authority for participation in their Primary General Liability Program (PGL). The cost for the fully insured program for Program Year 2003-2004 has been represented to be $581,615 with an additional deductible fund deposit of approximately $35,600. The program policy is written on an occurrence basis and would effectively eliminate the $200,000 self-insured retention, (a small $10,000 self-insured retention would remain).

While the CSAC-EIA Program would provide coverage for most liability claims, it should be noted that there would be some coverages and legal expenses not afforded by this program which would, of necessity, be retained by the County Counsel's Office. Further, it would not absolutely "replicate the legal representation provided by" the County Counsel's Office.

RECOMMENDATIONS

A. The Board of Supervisors should authorize funds to hire the Staff Assistant I position, and make plans to fund the Risk Management Analyst position in the short to intermediate term. (Findings 1, 2, and 3)

B. Request a new "Liability Claim Audit" to update the most recent audit which was completed in July of 2000. It is further recommended that if the County elects to retain its substantial self-insured position on General Liability coverages, that liability claims audits be conducted annually. (Finding 4)

C. If the County elects to fully insure the Liability Program, it will be necessary to evaluate and inventory the remaining/continuing legal services provided by the County Counsel's Office, and develop an appropriate, (albeit reduced), budgetary charge.

If the County elects to remain self-insured on the Liability Program the agreement to provide services, current procedures, and budgetary charges should be thoroughly reviewed by the County Counsel's Office, the County Administrator, and the Risk Management Division. The County Counsel's Office should explore a more precise tracking system than now exists, that will substantiate the budgetary charges to the Risk Management Office, as well as other "client" departments. It is the Grand Jury's understanding that there are computerized programs to do this, which if purchased and utilized, would more accurately record hours as well as provide document management and calendar functions.

Additionally, should the self-insured program continue, the feasibility of Risk Management having their own claims specialist should be explored. (Finding 5)

D. The Board of Supervisors should be professionally estimating future healthcare cost increases and making intermediate and long term budget plans to accommodate or mitigate such costs. (Finding 6)

E. The Grand Jury acknowledges the severe budget constraints the County operates under, but suggests that the County explore the purchase of higher liability policy limits which can usually be acquired at a reasonable cost. (Finding 10)

F. The County should immediately commence funding the General Liability Trust Account in accordance with the five year funding plan proposed by the Bickmore Actuarial Report (for Policy year 2003-2004), or, more preferably on an accelerated three year funding plan. This will ultimately bring the County into compliance with County Ordinance 5.62.020, 5.62.030, and 5.62.040 (A) and properly accrue for these loss and loss costs. (Finding 11 and 12)

G. The County should strongly consider participating in the fully insured Primary General Liability Program (PGL) (in excess of a $10,000 Self Insured Retention), offered by CSAC Excess Insurance Authority (EIA). While there appears to be an initial savings over the projected costs of remaining self-insured, the long term savings are likely more modest. There will, however be vastly increased risk and budgetary certainty at a theoretically small incremental increase in cost over the long term. Participation in this program will also force a degree of fiscal financial discipline so far lacking in the present self-insured program. (Finding 11 and 13)

Consideration for going fully-insured should also include the analysis of the coverages and services not provided by the fully insured program, and which would, of necessity or by statute, continue to be provided by the County Counsel's Office. (Finding 13)

COMMENTS

The positive results of an effective Risk Management program can be often directly measured by cost savings directly attributable to specific programs designed to reduce risk and loss costs. All too often, however, the cost savings are difficult to measure, especially when large (expensive) and unusual adverse events simply do not take place because of the efforts of the Risk Management Division Staff. While it could be appropriate claims management, or the prevention of a large and unusual loss, the County Supervisors should view their investment in risk management activities as essential to the financial protection of the residents and taxpayers of Mendocino County.

Additionally, the Grand Jury wishes to acknowledge the tremendous professionalism and commitment of the Risk Manager and her staff. Given budget constraints and a resultant staffing shortage, they function at an extremely high level given generally staggering workloads. The County can not realistically expect this to continue indefinitely, and must eventually make decisions regarding just what services they will require from the Risk Management Division, and how they will pay for those services. The Risk Manager is a tremendous asset to the County.

RESPONSE REQUIRED

Mendocino County Administrator
Mendocino County Counsel
Mendocino County Supervisors