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1920-06 Madera County and City of Madera Government Public Servants or Self Serving

OVERVIEW:

The Madera County Board of Supervisors (BOS) serves as the legislative and executive governing body of Madera County government. The Board of Supervisors is made up of five elected officials from five supervisorial and geographical districts in the County. Within the limits prescribed by State law, the Board enacts ordinances and rules, determines County policy, supervises the activities of County departments, adopts an annual budget, and negotiates and approves salaries.

The Madera City Council, a board of seven, is the elected legislative body of the City of Madera. Members of the City Council are elected by district, and the Mayor is elected at large. There are six (6) Council districts. Members of the City Council, including the Mayor, serve four-year terms. According to the National Association of Counties' Code of Ethics, the code requires that the duty and responsibilities to the communities remain unbiased, are fair and open to the public, and receive community input.

The self-serving practices of the City of Madera and County of Madera governments have repeatedly ignored the rights, voices, and the needs of the constituency. As elected officials, their duty is to serve the residents of Madera County and the City of Madera honestly, openly, and purposefully.

In this 2019-2020 Grand Jury report, the Madera County Grand Jury (MCGJ) addresses the following complaints.

- **Part I: Madera County Administrative Officer (CAO) Management Practices**
- The rights of employees have been squelched and dismissed.
 - **The complaints were that Workplace Harassment issues were not addressed.**
- **Part II: Coarsegold Rezoning**
- The repeated requests of residences have been shoved to the side.
 - **The complaints were failure by the BOS to listen to impacted constituents.**
- **Part III: Madera Municipal Airport Closure of Runway 8-26**
- The needs of a long-valued and heralded agricultural industry are experiencing frequent incursions of urban expansion without prior notice.
 - **The complaints were that adequate Public Notice not provided in accordance with the Brown Act.**

PART I

Madera County Administrative Officer (Cao) Management Practices

The complaints were that Workplace Harassment issues were not addressed.

SUMMARY:

During the last 10 years several workplace harassment complaints from Madera County employees have been reported to local news agencies and the Madera County Grand Jury (MCGJ). The 2012-2013 Madera County Grand Jury reported on these issues and they were not resolved by the Madera County Board of Supervisors or Human Resources Department. This 2019-2020 Madera County Grand Jury report further documents the ongoing and newly reported issues that occurred in the Chief Administrators Office (CAO) of Madera County.

BACKGROUND:

During the 2019-2020 year, the MCGJ received complaints which had previously been addressed in the *MCGJ Report of 2012-2013* regarding misconduct by the County Administrative Officer (CAO). The response to the 2012-2013 report by BOS dismissed the findings of the MCGJ and denied the existence of any problems. Therefore, the MCGJ was prompted to revisit the 2012-2013 issues expecting that progress in resolving workplace harassment issues would have been made. After reviewing the new complaints, the MCGJ was appalled that these serious issues regarding the office of the CAO persisted.

FINDINGS:

- F1.** 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.
- F2.** The MCGJ finds that the CAO's \$306,000 salary is excessive commensurate to the size of the County population and budget.
- F3.** The MCGJ finds that the CAO's severance of \$113,168.34 was paid by county taxpayers.
- F4.** 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.

RECOMMENDATIONS:

- R1.** 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.
- R2.** The MCGJ recommends that the County Director of Human Resources immediately conduct compensation research and salary review for the CAO position as it relates to counties and budgets similar in size to Madera County.
- R3.** The MCGJ recommends that the Board of Supervisors immediately document and provide a rationale for the severance package and payout made to the CAO.
- R4.** 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 or retaliation.

PART II

Coarsegold Rezoning:

The complaints were failure by the BOS to listen to impacted constituents.

SUMMARY:

The Madera County Grand Jury (MCGJ) responded to complaints regarding the ongoing request to rezone a Coarsegold neighborhood from residential rural to light industrial. Residents of the area in question presented to the Board of Supervisors' objections to this rezone, provided a signed petition by all neighbors and continue to oppose this rezoning. This issue has come before the Board of Supervisors and County Planning Department numerous times beginning in 2002 and continuing through 2018.

BACKGROUND:

Over the past 17 years, a property owner in the Meadow Springs Ranch neighborhood has repeatedly requested the rezoning of a 30-acre parcel from Residential Mountain Single Family (RMS) to Industrial, Urban or Rural, Light LI. The request also included an amendment to the General Plan and Coarsegold Area Plan designations from Rural Residential (RR) to Light Industrial (LI). The property is located on the West Side of Highway 41, between Veater Ranch Road and Stone Creek Drive. The parcel was split into two lots in 2014 (APN #054-090-095 and APN #095-090-096) and is surrounded entirely by residential homes. A petition signed on June 12, 2018 by 121 residents, has continually opposed the rezoning citing noise, traffic flow issues, and environmental impacts. Additionally, reviews completed and recommendations by the County Planning Department, Cal Trans, and the Regional Water Control Board also recommended denial of this rezoning and filed a negative environmental impact report. This report addresses the ongoing requests and opposition presented to the Board of Supervisors by the various agencies and concerned property owners.

FINDINGS:

- F1.** 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.
- F2.** The MCGJ finds that elected officials of the Board of Supervisors acted outside the Public Hearing process and may have violated the Brown Act.
- F3.** 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.

RECOMMENDATIONS:

- R1.** 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.
- R2.** The MCGJ recommends immediately that all Board of Supervisor members read and follow the Brown Act as required by law.
- R3.** The MCGJ recommends that immediately the Board of Supervisors make a final decision on this rezoning request and **close the request.**

PART III

Madera Municipal Airport

Part III. The needs of a long-valued and heralded agricultural industry are experiencing frequent incursions of urban expansion without prior notice.

The complaints were that adequate Public Notice was not provided in accordance with the Brown Act.

SUMMARY:

The self-serving practices of the City of Madera and the County of Madera have repeatedly ignored the rights, voices, and the needs of the constituency. Along with issues addressing work-place harassment (Part 1) and repeated requests for rezoning (Part 2) contained in this overall report (Madera County and the City of Madera Government: Public Servant or Self-Serving), this investigation into the closure of Runway 8-26 (Part 3) further highlights the City of Madera and the County of Madera's self-promoting agendas rather than the interests of the residents of Madera County in an honest, open, and purposeful fashion.

Within the City of Madera and the County of Madera there has been much public interest and an outcry concerning the closure of Runway 8-26 at the Madera Municipal Airport. The topic of the closure of Runway 8-26 has been discussed in the Madera Tribune and during Madera City Council meetings. In addition to the public responses to the closure of Runway 8-26, the Madera County Grand Jury (MCGJ) received several citizen complaints regarding the closure of Runway 8-26.

In order to operate, every airport is required to submit to the Airport Land Use Commission (ALUC – “The Commission”) their Master Plan (“Master Plan”). The Airport Land Use Compatibility Plan (ALUCP – “The Plan”) was originally drafted for the Madera Municipal Airport in 1993. It is required by the Federal Aviation Administration (FAA) and State Aeronautical Act (SAA). The Plan utilizes composite compatibility zones. Four compatibility factors are considered: noise, safety, airspace protection, and overflight. The Commission was intended to promote compatibility between airport operators and surrounding land use. From this Master Plan of the airport, The Commission then completes The Plan. The Plan is approved by the FAA, not the County, City, or Airport Advisory Committee.

BACKGROUND:

The Madera Municipal Airport is a general aviation airport owned and operated by the City of Madera, situated on 524 acres on the northwest edge of the City of Madera, and is supervised by the Madera Public Works Department. It is self-supporting and does not receive any subsidies from the City of Madera. Revenues from the airport finance the cost of operations and maintenance with the surplus going into the Enterprise Airport Fund.

The Airport has two asphalt paved runways. The primary runway, Runway 12-30, is 5544 feet long and the secondary, agriculture runway, Runway 8-26, is 3702 feet long and is restricted to aerial agriculture application, crop dusters, only. There is no tower, and pilots follow FAA procedures.

The City of Madera Airport Advisory Commission is a City Council appointed body established to serve in an advisory capacity to the City Council and staff on matters concerning the airport. The Commission is tasked with reviewing the annual budget to prioritize capital projects as well as reviewing and recommending airport policies, operational procedures, and action regarding land use surrounding the airport. The Advisory Commission meets three times a year or more if needed.

The Airport Land Use Compatibility Plan (The Plan), required by the FAA and State Aeronautical Act (SAA), was originally drafted for the Madera Municipal Airport in 1993. It was intended to promote compatibility between airport operators and surrounding land uses. The Plan does not have authority over existing land uses or operations of the airport, nor does it propose future airport or land use development or physical environmental changes.

In 2015, the City of Madera requested an update of the original 1993 Master Plan and a committee was formed including City Planners. The outcome of the updated Master Plan included closure of the Runway 8-26, and the construction of a large housing development. This Master Plan was presented to the public at a City Council meeting in August 2019 as a “done deal.” As a result, much negative commentary from pilots and users of Runway 8-26 was voiced.

Since then, the MCGJ received complaints over the closure of Runway 8-26 and the loss to local agriculture of the crop dusting services necessary to maintain and grow the agricultural industry.

In the past, Runway 8-26 served as an agricultural runway for the purpose of crop dusting, and aerial application of fertilizers, and pesticides. Runway 8-26 has been considered a vital, centrally located agricultural runway for the purpose of crop dusting. Crop dusting is a general term for aerial application of products.

With the closure of the Runway 8-26 at the Madera Airport, crop dusters no longer have a “designated crop duster only”- runway with which to conduct business. Crop dusters will be required to use the main runway, which is used by all other private and public flights.

Changes to the airport and its operations are the purview of the City of Madera’s Airport Layout Plan, not The Plan, as stated in the September 1, 2015 ALUCP Staff Report. According to the Staff Report, the City of Madera was “in process” of updating the Airport Layout Plan (ALP), therefore, it fell to the City of Madera to provide Public Notice concerning those changes. However, it was the position of the City of Madera planners that notice provided by the County of Madera was adequate. The MCGJ was not able to find any separate notices addressing the closure of Runway 8-26 made or posted by the County. Rather, the MCGJ was told the closure of Runway 8-26 was a “done deal.”

The discussion surrounding the closure of Runway 8-26 dates back to 1993. The Plan is only for the areas surrounding the airport. The Plan does not address what the airport does on airport property if the airport does not violate past Airport Land Use Compatibility Plans. The Commission solely serves in an advisory capacity and cannot dictate the closure of a runway. According to the California Environmental Quality Act (CEQA):

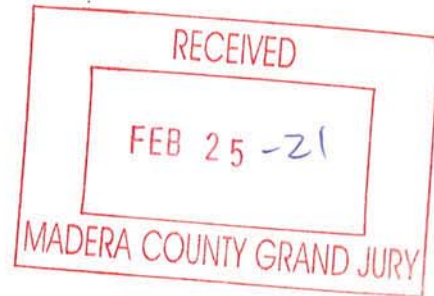
The Madera Municipal Airport Land Use Compatibility Plan (ALUCP) will replace the existing plan adopted in by the Madera County Land Use Commission (ALUC) in 1993. The proposed ALUCP is included as Attachment to the Initial Study. Preparation of the ALUCP is intended to promote compatibility between airport operations and surrounding land uses considering noise, safety, airspace protection, and overflight effects. Neither the ALUCP nor the ALUC have authority over existing land uses, operation of the airport, or state, federal, or tribal lands. Nor does the ALUCP propose future airport or land use development, or physical changes to the environment. Based on the analysis performance, adoption, and implementation of the ALUCP will not create a significant effect on the environment. <https://opr.ca.gov/2015071075>

FINDINGS:

- F1.** The MCGJ finds that the City of Madera and the County of Madera did not provide requested documentation.
- F2.** 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.
- F3.** The MCGJ finds that the City of Madera spent taxpayer's money to purchase additional acreage for a fire station.
- F4.** The MCGJ finds that to facilitate the closure of Runway 8-26 a renewal application for funding was not submitted.
- F5.** The MCGJ finds that private interests in leasing the airport facilities were repeatedly ignored.

RECOMMENDATIONS:

- R1.** 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.
- R2.** 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.
- R3.** The MCGJ recommends that immediately the City of Madera and the County of Madera refrain from carelessly spending taxpayer money.
- R4.** 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.
- R5.** The MCGJ recommends that immediately the City of Madera and the County of Madera entertain the financial investment interests of private entities.



February 19, 2021

Honorable Judge Michael Jurkovich
Madera County Supervising Judge
300 South G Street
Madera CA 93637

SUBJECT: Response to the Findings of the Madera County and City of Madera: Public Servants or Self Serving 2019/20 Grand Jury Final Report 1920-04 Published on December 21, 2020

Dear Honorable Judge Michael Jurkovich:

I would like to acknowledge and express appreciation for extensive efforts undertaken by the Grand Jury. In accordance with California Penal Code §933 and §933.05, this letter addresses all the Grand Jury Findings and Recommendations that address subjects under my purview as the Chief of Development Services. I hope my responses are helpful to future pursuits of the Grand Jury and to the community at large.

**Part II
Coarsegold Rezoning**

FINDINGS IN REPORT:

F3. 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: *Disagree. In review of the MCGJ report this is clearly a mistake and has no merit as a finding. The finding by the MCGJ that the Board of Supervisors showed favoritism to the property owner is contrary to the fact that the applicant spent tens of thousands of dollars on applications and in every case was DENIED by the Board of Supervisors.*

RECOMMENDATIONS IN REPORT:

R3. The MCGJ recommends that immediately the Board of Supervisors make a final decision on the rezoning request and **close the request.**





Response: *The recommendation will not be implemented because it is not reasonable. This would be a violation of the individual's due process rights. 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.*

**Part III
Madera Municipal Airport**

FINDINGS IN REPORT:

F1. The MCGJ finds that the City of Madera and the County of Madera did not provide requested documentation.

Response: *Partially Disagree. I was never approached by the MCGJ requesting any documentation related to the Madera Municipal Airport.*

RECOMMENDATIONS IN REPORT:

R1. The MCGJ recommends that immediately the City of Madera and the County of Madera adhere to request for public documents when requested by the Madera County Grand Jury.

Response: *Agree.*

R2. 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: *Agree.*

R3. The MCGJ recommends that immediately the City of Madera and the County of Madera refrain from carelessly spending taxpayer money.

Response: *Agree.*





R4. 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: Agree.

R5. 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 will not be implemented because it is not reasonable. It appears that MCGJ may be contradicting Part II of this report with this recommendation to provide prejudice or favoritism to those individuals who have a financial investment interest rather than what is best for all Madera County Taxpayers. Ethically this would not be appropriate and may even rise to the level of illegal actions.

Sincerely

Matthew Treber
Chief of Development Services



March 17, 2021



The Honorable Michael Jurkovich, Supervising Judge
Supervising Judges of the Grand Jury
Madera County Superior Court
300 South G Street
Madera, California 93637

**Re: City of Madera Response to Madera County Grand Jury
Madera County and City of Madera Government: Public Servants or Self Serving
Report 1920-06; December 21, 2020**

Dear Honorable Judge Jurkovich:

This letter is submitted on behalf of the Mayor and City Council of the City of Madera and the Madera Municipal Airport collectively referred to as "City" in this Response.

On December 21, 2020, the City of Madera ("City") received a letter from the Madera County Grand Jury which attached a copy of the Grand Jury's Report titled "Madera County and City of Madera Government: Public Servants or Self Serving" (hereafter "Report"). The letter states that the Report would be released to the public "three days after the date of this letter." As such, we view the release date as December 24, 2020.

Penal Code Section 933 (c) requires that the governing board of the public agency (here, the City Council) is required to respond not later than 90 days after the public release date. As required, the Mayor and the City Council of the City of Madera and Madera Municipal Airport respectfully submits the following responses to the Findings and Recommendations in the Report in the form required by the Penal Code.

As a preliminary matter, the responding parties respectfully note that Part I of the Report relates to the County of Madera and Part II of the Report relates to Coarsegold. Those two Parts and the associated findings and recommendations, pertain to matters that are not under the control of the City of Madera which is a public agency that is distinct and separate from the County of Madera and Coarsegold both with separate governing boards, etc. As such, the City of Madera is not the entity who would be able to provide a response to those items, nor would it have authority to implement the associated recommendations as further noted below.

We note that the City has taken the Grand Jury's Report seriously and has endeavored to address the Report comprehensively as evidenced by this Response and by the attachments comprising

1,101 pages. Great care has been taken to ensure the City responds concisely yet with appropriate details as demonstrated by references to numerous documents which the City has researched, reviewed, and attached to this Response.

Based on the above, the following constitutes the City's Response to the Grand Jury's Findings and Recommendations relating to PART III of the Report.

FINDINGS

F1: The MCGJ finds that the City of Madera and the County of Madera did not provide requested documentation.

Response 1: As it pertains to the City of Madera, the City disagrees partially with this Finding 1. Given the MCGJ's admonition of secrecy, current staff does not have adequate information to ascertain what was requested of the City, nor what was produced to the MCGJ for review. The finding, as written, provides insufficient information to either agree or disagree. However, we are noting that the City "disagrees partially" because of the mandated method for response. To demonstrate the City's good faith, the City is committed to providing staff training to judiciously and expeditiously provide documentation to the MCGJ in the future and to corroborate with MCGJ to enable the City to provide information requested.

F2: 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 2: As it pertains to the City of Madera, the City disagrees with this finding. The following is a list of actions and meetings that were subject to public notice requirements during all relevant times.

The closure of Runway 8-26, also known as Runway 7-25, has been planned for since 1993. The following provides a summary actions taken followed by a synopsis of each:

- A. 1993 Madera Municipal Airport Master Plan (see Exhibit A, page 48)
- B. 2015 Madera Countywide Airport Land Use Compatibility Plan (ALUCP) (see Exhibit B, Map MAD-3B)
- C. Madera Municipal Airport Layout Plan Update Narrative (2016) (see Exhibit C, pages ES-1 and ES-49)

D. Madera Municipal Airport Layout Plan (2017) (see Exhibit D, page 2, Note 2)

E. Additional Public Outreach

A. 1993 Madera Municipal Airport Master Plan

The 1993 Madera Municipal Airport Master Plan (1993 Master Plan) listed the runway as restricted and anticipated that the runway's role would change, and that change would most likely be to abandon it as a runway (see page 48 of Exhibit A). During the adoption of the 1993 Master Plan, public notification was provided for the following:

- June 12, 1990 an Initial Study/Negative Declaration was prepared in accordance to the California Environmental Quality Act Guidelines
- November 6, 1992: Airport Advisory Commission Meeting (see Exhibit E)
- December 17, 1992: Airport Advisory Commission Meeting (see Exhibit F)
- November 24, 1992: Planning Commission Meeting (see Exhibit G)
- December 8, 1992: Planning Commission Meeting (see Exhibit H)
- March 1, 1993: Madera City Council Meeting (see Exhibit I)

B. 2015 Madera Countywide Airport Land Use Compatibility Plan (ALUCP)

While the 2015 ALUCP was not prepared under the auspices of the City, the 2015 ALUCP presented the plan to officially abandon Runway 8-26 once its agricultural aerial applicator lease expired in 2019 (see Exhibit B, Map MAD-3B). More specifically it states

“Compatibility zones are in effect until such time that Runway 8-26 is closed. The City anticipates to close runway 8-26, which is restricted to agricultural uses, once the FBO [Fixed Base Operator] lease expires in 2019.”

While the ALUCP indicates that the runway would close in 2019, in the spirit of cooperation, the City waited until the end of 2020 to close the runway after numerous discussions with the local aviation community. Worth noting is that during the adoption of the 2015 ALUCP, the following occurred:

- August 4, 2015: Airport Land Use Commission workshop (see Exhibit J).
- August 26, 2015: Airport Advisory Commission workshop (see Exhibit K).

- September 1, 2015: Airport Land Use Commission workshop (see Exhibit L).
- September 9, 2015: Caltrans Division of Aeronautics approval (see Attachment A of Exhibit B).
- September 29, 2015: Airport Land Use Commission meeting (see Exhibit M) (references to subset are found in Exhibit M)
 - It is noted that no public comments regarding the potential closure of the runway were discussed (page 8 Exhibit E).
 - California Environmental Quality Act (CEQA): The subject plan was subject to the CEQA Guidelines. As such, an environmental assessment was prepared. Said document was circulated through the State Clearinghouse for a 30-day public review period (see Comment 5).
 - No written comments from the public were received in response to the Public Comment period (see Exhibit E).
- Worth noting is that during the adoption of the 2015 ALUCP adoption process, ALUC staff was responsible for providing public notice pursuant to the Government Code. Staff issued two notices of public hearings in the local newspaper for the September 1, 2015 (see Exhibit N) and September 29, 2015 (see Exhibit O)

C. Madera Municipal Airport Layout Plan Update Narrative (2016) (2016 MMALP)

The 2016 MMALP notes “[R]unway 8-26 is to be abandoned when the agricultural spraying operator lease expires in 5 to 6 years...” (see Exhibit C, pages ES-1 and ES-4).

The 2016 MMALP was discussed at the February 11, 2015 Airport Advisory Committee Meeting (See Exhibit P).

D. Madera Municipal Airport Layout Plan (2017) (see Exhibit D)

An Airport Layout Plan (ALP) is a scaled, graphical presentation of the existing and future airport facilities, their location on the airport campus, and pertinent clearance and dimensional information. The ALP is a major product of the Master Plan Update which contains information used by the FAA to program future funding assistance and to monitor the airport’s compliance with design standards and grant assurances.

ALP noted that runway 8-26 would be abandoned at the end of its agricultural aerial applicator lease ended in 2019 (see Exhibit D, page 2, Note 2).

FAA regulations dictate that an ALP remains current for a five-year period, or longer, unless major changes at the airport are made or planned.

The item was discussed by the Airport Advisory Commission during the following meetings:

- May 27, 2015 (see Exhibit Q)
- August 26, 2015 (see Exhibit R)
- May 1, 2017 (see Exhibit S)

E. Additional Public Outreach

In addition to the efforts above, additional public meetings and workshops were commissioned to solicit feedback and to provide community updates. These efforts may be summarized as follows:

- August 21, 2019: City Council workshop regarding the closure of Runway 8-26 (see Exhibit T).
- September 9, 2019: Meeting between staff and local aviation group to discuss the impending runway closure.
- December 3, 2019: Airport Advisory Commission meeting (see Exhibit U).
- May 18, 2020: The Federal Aviation Agency (FAA) granted the City access to deactivate Runway 8-26 via a Letter of Deactivation (see Exhibit V).
- December 10, 2020: Airport Advisory Commission meeting (see Exhibit W).
 - A quorum was not established; however, the purpose was to simply provide an update similar to previous meetings.
- December 16, 2020: Madera City Council Meeting (see Exhibit X).

F3: The MCGJ finds that the City of Madera spent taxpayer's money to purchase additional acreage for a fire station.

Response 3: The City agrees with the finding in that taxpayer money was used to purchase additional acreage for a fire station. The respondent disagrees with the underlying inference that this expenditure was somehow inappropriate.

The observation that City of Madera expended taxpayer money is accurate. However, placement of a City facility at the airport would not necessarily come at

a reduced or no cost agreement as placement of the fire station at the airport would have resulted in the following:

- A. Any location utilized by a fire station on Airport land would likewise represent a potential loss in area in which future hangars might be constructed. At present, the area in which the fire station was depicted in the 1993 Master Plan is unassigned in the 2015 ALUCP. At present there is a demand that is not expected to abate over time for hangar space. These facilities are required to pay fair market value for lease of land on which tenant owned hangars are constructed. A fire station may be detrimental to expanded hangar space and associated revenue to the degree that a fire station utilizes the land.
- B. Any location utilized by a fire station on Airport land would likely occur through a purchase or lease agreement at fair market value to use the land. Depending on the land requirement, there might be no savings associated with a fire station on Airport land. The cost of the land for the actual fire station is not as noted in the Grand Jury Final Report. The total land purchase was intended for other uses beyond just the fire station itself. The additional land might eventually provide for future training facilities for fire and police personnel as demands upon the City and perhaps the County expand. Those facilities, based on discussions with CalFire, might include a classroom, ventilation props, etc. all within proximity to an operational fire station. When accounting for the land used by the fire station itself, a rough estimate of land value used is \$300,000, not \$620,000.

Regarding the ultimate fire station location, 16 total locations were evaluated for preferred site. Two locations of 16 studied were in the general vicinity of the location identified in the 1993 Master Plan but were not included in a short list of locations. In conversations with CalFire, it was indicated the sites at or near the Airport would have extended response times in general compared to the selected site on Condor Drive.

F4: The MCGJ finds that to facilitate the closure of Runway 8-26 a renewal application for funding was not submitted.

Response 4: The City disagrees with this finding.

Per Federal Aviation Administration (FAA) policy, the Airport District Office (ADO) can only fund a single runway at an airport unless the ADO has made a specific determination that one or more crosswind or secondary runways are justified (FAA, 2020).

The 1993 Master Plan indicated that the Airport's main runway, which is Runway 12-30, provided adequate wind coverage 98.9% of the time. Therefore, the FAA did not deem Runway 8-26 eligible for funding since FAA would only consider it as a crosswind runway if the wind coverage on the primary runway was less than 95% (FAA, 2020). In conclusion, there was not an opportunity to submit a renewal application to the FAA since Runway 8-26 was not eligible for funding. Without FAA grant funding, that runway is simply not sustainable without infusions of cash; General Fund, or higher leases (over many years) beyond market value when they come back up for renewal.

Reference:

Federal Aviation Administration. (2020, August 25). AIP Handbook. Retrieved from https://www.faa.gov/airports/aip/aip_handbook/?Chapter=Appendix

F5: The MCGJ finds that the private interests in leasing the airport facilities were repeatedly ignored.

Response 5: The City disagrees with this finding.

Given that the finding does not identify specifics, the City does not have adequate information to ascertain what leases this is regarding. The finding, as written, provides insufficient information to either agree or disagree. However, we are noting that the City "disagrees" because of the mandated method for response. Regardless, interests in hangar leases have increased and have been responded to, which has been reflected with the ongoing construction at the Airport. For example:

- A. On July 15, 2020, Madera City Council approved the construction of a non-commercial 37,000 square foot aeronautical hangar for WSD, LLC, a California limited liability company, which is located on the north end of the Airport.
- B. There are also two other areas which have been reserved for ground leases by Madera Jet Center and Talley Oil, inc., which are awaiting construction.
- C. There are two available ground lease parcels which have received interest but have not yet been reserved.
- D. As for the Airport's 97 t-hangars, all are currently occupied and there is a waitlist of 18 interested tenants.

RECOMMENDATIONS

Rec. 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 1: As it pertains to the City of Madera, this recommendation has been implemented and will be on-going. The City of Madera prides itself in aiming to be transparent in governance and management of the City. This includes adhering to requests for public documents when requested by the Madera County Grand Jury and all other Public Records requests, per the Public Records Act

Rec. 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 2: As it pertains to the City of Madera, this recommendation has been implemented and will be on-going. All public meetings are conducted openly in compliance with the Brown Act and its records maintained publicly pursuant to the Public Records Act.

The following are examples of compliance with provisions of the Brown Act by the City:

- The City publishes notices of public hearings as required by law.
- City Council agendas and reports are made available to the public both online and at City Hall.
- In a continued effort to encourage a higher level of community engagement and to further promote open and transparent decision-making by Council, in June of 2017, the City added live internet video streaming and video archiving to provide further options and opportunities for community members to follow Council meetings. Meetings are streamed live at madera.gov/live during City Council meetings, recorded, and archived on the City's website and YouTube Channel for on-demand viewing at the viewer's convenience.
- Beginning in January 2019, the City made a concentrated effort to provide clear, concise agendas and pertinent items to add further transparency to the legislative process.
- The City Attorney has provided AB 1234 training which includes ethics, the Brown Act, the Public Records Act, conflicts of interest, and due process. Training will again be provided in the next couple of months.

Rec. 3: The MCGJ recommends that immediately the City of Madera and the County of Madera refrain from carelessly spending taxpayer money.

Response 3: As it pertains to the City of Madera, this recommendation has been implemented and will be on-going. We feel compelled to address the use of the term "refrain" which implies the City has carelessly spent taxpayer money. The City works diligently to ensure the best stewardship of taxpayer dollars.

The following are examples of the City's dedication to refraining from carelessly spending taxpayer money:

- Regular Meetings of Council have a standing informational report, in which a register of audited demands is made public and brought forth for review.
- All staff reports brought before Council have a Financial Impact section, in which financial implications are reported on and disclosed.
- City Annual Budgets are all reviewed, adopted by Council, and published. The City website has Annual Budgets posted for public review, starting with FY 2016/2017.
- The City also has posted on its website copies of the Audited Financial Statements starting with 2016.

Rec. 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 4: As it pertains to the City of Madera, this recommendation has been implemented and will be on-going. The City has a long-standing policy relating to the retention of records in conformance with state law.

The City works working diligently to ensure that funding opportunities are presented to staff and Council.

The City strives to seek and pursue renewable funding opportunities in the best interest of residents. When renewable funding opportunities arise, information is brought before Council for guidance. Information presented to Council includes a staff report outlining the summary, discussion points, financial impact, and alternative options. All public meetings are conducted openly in compliance with the Brown Act and its records maintained publicly pursuant to the Public Records Act, thus all information shared with Council is accessible by the public.

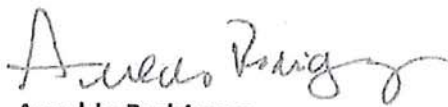
Rec. 5: The MCGJ recommends that immediately the City of Madera and the County of Madera entertain the financial investment interests of private entities.

Response 5: As it pertains to the City of Madera, this recommendation has been implemented and will be on-going. Relevant to the subject MCGJ Report, the Airport is seeing unprecedented private investment and interest. Currently, the City is in discussions with several private parties and recently contracted with a private aviation consulting firm to assist with Airport growth and management and has recently welcomed a moderately sized flight school. In addition, in response to concerns raised by the local aviation community, the City purchased a small sweeper to clean the runway more efficiently.

It should also be noted that the City Council, members of City boards, commissions, committees, and staff base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations, or on the financial investment interest of private individuals. Basing decisions on financial investment interests of private individuals is counter to good governance and has the potential to pose ethical dilemmas. Rather, decision making should be based on the common good for the community.

We thank the Grand Jury for its service to the community. Please let us know if you or the Grand Jury need additional information.

Sincerely,



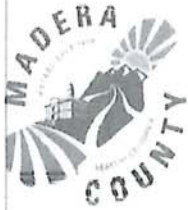
Arnoldo Rodriguez
City Manager
City of Madera

c: Foreperson, Madera County Grand Jury, PO Box 534, Madera, CA 93637

Attachments:

- Exhibit A: 1993 Madera Municipal Airport Master Plan
- Exhibit B: 2015 Airport Land Use Compatibility Plan (ALUCP)
- Exhibit C: 2016 Airport Layout Plan Update Narrative
- Exhibit D: 2017 Airport Layout Plan
- Exhibit E: Airport Advisory Commission (AAC) Meeting of November 6, 1992
- Exhibit F: Airport Advisory Commission (AAC) Meeting of December 17, 1992
- Exhibit G: Planning Commission Meeting of November 24, 1992

- Exhibit H: Planning Commission Meeting of December 8, 1992
- Exhibit I: Madera City Council Meeting Minutes of March 1, 1993
- Exhibit J: Airport Land Use Commission (ALUC) Meeting of August 4, 2015
- Exhibit K: Airport Advisory Commission (AAC) Meeting of August 26, 2015
- Exhibit L: Airport Land Use Commission (ALUC) Meeting of September 1, 2015
- Exhibit M: Airport Land Use Commission (ALUC) Meeting of September 29, 2015
- Exhibit N: Public Hearing Notice for September 1, 2015
- Exhibit O: Public Hearing Notice for September 29, 2015
- Exhibit P: August 26, 2015, Airport Advisory Commission (AAC) Meeting Minutes
- Exhibit Q: May 27, 2015, Airport Advisory Commission (AAC) Meeting Minutes
- Exhibit R: August 26, 2015, Airport Advisory Commission (AAC) Meeting Minutes
- Exhibit S: May 1, 2017, Airport Advisory Commission (AAC) Meeting
- Exhibit T: August 21, 2019, Madera City Council Meeting
- Exhibit U: December 3, 2019, Airport Advisory Commission (AAC) Meeting
- Exhibit V: Federal Aviation Administration Letter of Deactivation
- Exhibit W: December 10, 2020, Airport Advisory Commission (AAC) Meeting
- Exhibit X: December 16, 2020, City Council Agenda



BOARD OF SUPERVISORS COUNTY OF MADERA

MADERA COUNTY GOVERNMENT CENTER
200 WEST 4TH STREET / MADERA, CALIFORNIA 93637
(559) 675-7700 / FAX (559) 673-3302 / TDD (559) 675-8970
Agendas available: www.MaderaCounty.com

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)													
For Clerk of the Board's Office Use Only													
BOARD'S ACTION:													
<table style="width: 100%; border: none;"> <tr> <td style="width: 15%;">RESULT:</td> <td>APPROVED BY CONSENT VOTE [UNANIMOUS]</td> </tr> <tr> <td>MOVER:</td> <td>Tom Wheeler, Chairman Pro Tem</td> </tr> <tr> <td>SECONDER:</td> <td>Brett Frazier, Supervisor - District No. 1</td> </tr> <tr> <td>AYES:</td> <td>Frazier, Rogers, Poythress, Gonzalez, Wheeler</td> </tr> </table>						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
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			DOCUMENT NO(S).										
Will this item require additional personnel? No													
Previous Relevant Board Actions:													
PowerPoint/Supporting Documents: Other/Misc.													

RECOMMENDED ACTIONS:

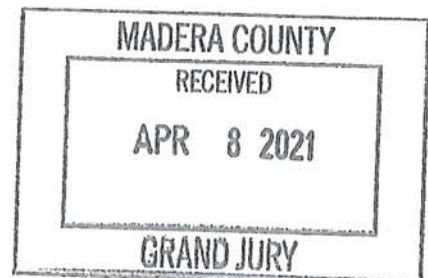
Consideration of approval of the response to the 2019-2020 Grand Jury Report entitled "Madera County and City of Madera: Public Servants or Self Serving".

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
DAVID ROGERS, District No. 2
ROBERT L. POYTHRESS, District No. 3
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 Poythress".

Robert L. Poythress
Chairman of the Board of Supervisors