

Mariposa County Civil Grand Jury 2021-2022

Final Report



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Mariposa County Grand Jury

PO BOX 789
Mariposa, California 95338

June 28, 2022

To the Citizens of Mariposa County and the Honorable Judge Michael M. Fagalde:

On behalf of the 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) and in accordance with California Penal Code Section 933, it is my privilege to present our Final Report.

The mission of the Civil Grand Jury is to actively participate in the democratic process of monitoring the activities of our County agencies and special districts to promote accountability and transparency. Reports analyze local government operations and procedures, mobilize public opinion, and help bring about positive changes in how local governments serve the public's interest with effectiveness and efficiency. Where an investigation leads to important Findings, the Grand Jury makes Recommendations to facilitate positive change for the benefit of the citizens of the County. All members of the 2021-2022 MCCGJ stand behind the facts presented in this report as well as the process by which this information was collected and analyzed.

The MCCGJ is supported not only by the Superior Court, but also by County agencies. We thank the County Administration staff for their administrative help, the District Attorney's office for their legal support, and the Information Systems Department staff for the computer and network assistance that is essential to completing this civic duty in the modern era. The MCCGJ is grateful for the County representatives who graciously shared their time to provide presentations on a spectrum of County programs and operations:

- Dallin Kimble, Mariposa County Administrative Officer, September 22, 2021
- Matthew Matthiessen, Chief Executive Office, John C. Fremont Healthcare District, October 4, 2021
- Walter Wall, District Attorney for Mariposa County, November 3, 2021
- Jeremy Briese, Sheriff, Mariposa County, November 3, 2021
- Sarah Williams, Planning Director, Mariposa County, November 17, 2021
- Candy O'Donel-Browne, Board Chair, JCF Healthcare District, December 3, 2021
- Thomas Sweeney, Mariposa County Supervisor, December 8, 2021
- Eric Sergienko MD, MPH, Mariposa County Health Officer, December 12, 2021
- Kathy Chappell, Board Chair, Mariposa County Unified School District, January 27, 2022
- Rosemarie Smallcombe, Mariposa County Supervisor, February 2, 2022
- Susan Wages, General Manager, Mariposa County Utility District, March 9, 2022

I have been humbled to serve as Foreperson with this Grand Jury. I have gained tremendous appreciation for the resourcefulness and resilience of employees within our County programs. In the face of a global

pandemic and continuing economic instability, these individuals serve the citizens of this County with dedicated professionalism.

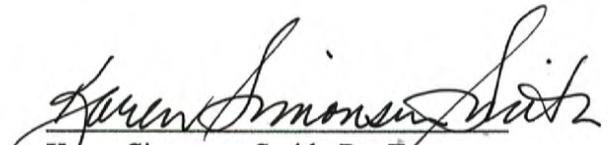
The members of this jury answered the call to build community through civic duty. They brought a spectrum of expertise and experience, and maintained utmost integrity through diligent investigations and well-informed deliberations. The solution-oriented perseverance and heartfelt collegiality of the team of jurors is nothing short of commendable. I strongly encourage any County citizen with an interest in democracy, County government, and community to consider serving as a Grand Juror.

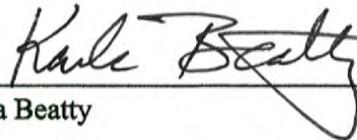
A handwritten signature in blue ink, appearing to read 'Erin'.

Erin Davenport
Foreperson
Mariposa County Civil Grand Jury 2021-2022

As members of the 2021-2022 Mariposa County Civil Grand Jury, we respectfully submit our final report, June 27, 2022.


Erin Davenport, Foreperson


Karen Simonson Smith, Pro Tem

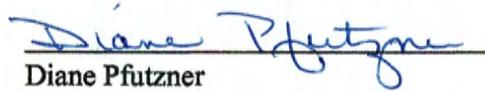

Karla Beatty


Michael Day


Patricia Gilger


Jill Harry


Michael Henderson


Diane Pfitzner

 FOR DAN WASIL
Daniel Wasil

Executive Summary

The 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) began its term in July 2021 with the benefit of two returning jurors from the 2020-2021 MCCGJ. During the course of the year, four (4) of the original eleven (11) jurors resigned and were replaced by two (2) eager alternates. The team finished out the term with nine (9) jurors and the continued mandate of eight (8) votes constituting a supermajority for all actions. Despite the challenges this presented, the MCCGJ was able to complete numerous inquiries and investigations. Six (6) investigations resulted in reports. Additionally, the MCCGJ observed the September 11, 2021 ballot processing, developed a continuity report addressing responses and follow-up to the 2020-2021 MCCGJ final report, and conducted tours of County correctional facilities.

SUMMARY OF NON-INVESTIGATIVE INQUIRIES

The following inquiries did not result in investigations. The MCCGJ did not conduct complete examinations, triangulating information through interviews, research, and observations, nor did the jury identify specific Findings or Recommendations requiring actions.

Election Observation

On September 14, 2021, the State of California held a Governor Recall Election. Prior to this event, County Clerk/Registrar of Voters Keith Williams invited the Grand Jury to observe staff at the Department of Elections process absentee ballots and also to observe one or more voting places on election day. Over the course of three days, Grand Jury members observed staff at the Elections Office performing tasks related to the Election Management System and the Election Tally System, and visited a few polling places to observe processes at each. Mr. Williams and Department of Elections staff spoke with jurors, were very knowledgeable, worked efficiently with systems and with each other, and answered many Grand Jury member questions. The Grand Jury was surprised by how time intensive processing ballots is, impressed with all operations related to elections, and satisfied with the security of the election system.

Custodial Facility Tours

Per California Penal Code Section 919 (b), the Grand Jury shall inquire into the condition and management of the public prisons within the county, and is allowed access by PC §925 and §925(a) of the California Penal Code. The 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) toured the Mount Bullion Conservation Camp #39 run by the California State Department of Corrections and Rehabilitation, Juvenile Hall run by Mariposa County Probation Department, and the Adult Detention Facility which is a division of the Sheriff's Office. All facilities within the county face ongoing challenges related to budget restraints and the ongoing pandemic. The facilities were clean, well maintained and operating within California Penal Code requirements. Each facility is regularly inspected by state oversight agencies. The MCCGJ commends the jail commander, Jacob Bobman, for implementing changes in equipment for staff which improve work ergonomics without compromising the safety of the staff or detainees. The MCCGJ also applauds the addition of iPads for supervised use, changes being made to

accommodate educational advancement, and plans to increase areas available for programs and services for the detainees designed to reduce the rate of recidivism in Mariposa County.

Compliance and Continuity Report: Past Examination, Present Action

This continuity report was completed by the 2021-2022 MCCGJ based on elected and appointed officials' initial responses to the findings and recommendations of the 2020-2021 MCCGJ Final Report. It also includes the follow-up responses those officials made when the 2021-2022 MCCGJ requested further clarification.

The MCCGJ received most of the initial responses from elected officials and entity boards within the required timeframe. Some of the agencies accepted the findings of the 2020-2021 MCCGJ final report and took recommended corrective actions in a reasonable time frame. When they did not agree with a recommendation, some provided explanations. In many instances, it seemed the respondents were not clear about California Penal Code requirements regarding what their responses must include. In these cases, the 2021-2022 MCCGJ requested more detailed responses and, in most cases, received them. All instances of this are noted in Appendix A of this Compliance and Continuity Report.

SUMMARY OF INVESTIGATIVE REPORTS

The MCCGJ received twelve (12) formally filed complaints and additional informal complaints during the 1-year term. The complaints were each reviewed by the entire Grand Jury to assess if the topic was within the purview of the MCCGJ and if there were potential conflicts of interest. Relevant topics underwent initial inquiries which included interviews and background research, culminating in a presentation to the jury to determine by supermajority vote if a formal investigation was warranted. Topics were then investigated by a committee who provided the jury with status updates in bi-weekly meetings, and ultimately a draft report. Draft reports went through an Editorial Committee to reach their final form and were approved by supermajority vote. Six (6) resulted in conclusive investigative reports that are included in this Final Report:

1. Airport Advisory Committee - Board of Supervisors Meeting Discussion

Reviews the procedure followed in a specific Airport Advisory Committee-related agenda item on a Board of Supervisors (BOS) meeting agenda, and recommends generally that the BOS follow County policy in addressing alleged inappropriate conduct complaints.

2. County Process for Contracting Outside Services - Coulterville Visitor Center Operations

Addresses an example of a County competitive bid contract process and recommends generally that the County develop a standard set of policies and procedures for contracting outside services, in the form of a Procedures Manual, to be used across all County departments.

3. County Cemetery Operations - Burial Request Processing Issues

Confirms through investigation of a specific burial request that there are systemic issues with the County's process of communicating with Mariposa County residents about interment, the lack of active cemetery committee in one of the three (3) County cemeteries, and additional issues involving inconsistent upkeep and a lack of guidelines for processing burial requests.

4. John C. Fremont Healthcare District - Board Meeting Violations

Identifies multiple instances of Ralph M. Brown Act, Health and Safety Code §3200-32499.4, and Government Code §54956.87 violations when it comes to wording of closed session agenda items and actions at board meetings, and recommends generally for all board members and appropriate administrative staff to receive training on the relevant codes and to develop a specific schedule for training and retraining.

5. Mariposa County Unified School District Board - Conflict of Interest

Considers a specific instance of a School Board Member making a motion and voting on a topic that uniquely affected his/her relative(s), and recommends generally that the bylaws more clearly establish definitions and processes by which School Board Members recuse themselves from making motions or voting on matters that involve a conflict of interest or give the appearance of a conflict of interest.

6. Road Maintenance Agreements - Standards and Provisions for Long-Term Maintenance

Evaluates a specific example of a road maintenance agreement (RMA) and recommends generally that a standard RMA template be developed as well as updates to the Mariposa County Road Improvement and Circulation Policy and Improvement Standards to include standard conditions for appropriate long-term road maintenance.

The MCCGJ hopes all will find the detailed reports informative and that the agencies named within will find the Recommendations helpful in improving systems that affect Mariposa County residents.

Non-Investigative Reports



Observation of the Mariposa County 2021 Election Process

SUMMARY

On September 14, 2021, the State of California held a Governor Recall Election. Prior to this event, County Clerk/Registrar of Voters Keith Williams invited the Grand Jury to observe staff at the Department of Elections process absentee ballots and also to observe one or more voting places on election day. Over the course of three days, Grand Jury members observed staff at the Elections Office performing tasks related to the Election Management System and the Election Tally System, and visited a few polling places to observe processes at each. Mr. Williams and Department of Elections staff were very knowledgeable, worked efficiently with systems and with each other, and answered many Grand Jury member questions. The Grand Jury was surprised by how time intensive processing ballots is, impressed with all operations related to elections, and satisfied with the security of the election system.

OVERVIEW

The California Voters Choice Act passed in 2016. It allows counties in California to institute election systems that are almost completely mail-in ballot driven. Vote by mail was already popular in Mariposa County with about 70 percent of voters casting ballots this way; ballots were mailed to voters who requested them. In March 2020, based on Department of Elections recommendations, Mariposa County chose to switch to the voting by mail system. Now, ballots are mailed to every registered voter in the county.

Residents are registered to vote in a variety of ways. Many register electronically at the DMV at the time of getting or renewing their driver's license. Paper applications are available at the county elections office, library, Department of Motor Vehicles office, or U.S. post office. Paper applications must be turned in at least 15 days before an election for processing. People can also register at the California Secretary of State voter registration webpage. In this scenario, the registrant's signature is retrieved from the DMV. If a registrant does not have a driver's license, additional steps are outlined. Same Day Voter Registration, known as Conditional Voter Registration in state law, is also available. Eligible citizens who need to register or re-register to vote within 14 days of an election can complete this process to register and vote at their county elections office, polling place, or vote center. Their ballots will be processed and counted once the county elections office has completed the voter registration verification process.

Mariposa County Election Staff stated that registered voter numbers decreased to about 10,000 some number of years ago. In 2020, registration increased by about 2,000 and Mariposa County currently has 12,105 voters. Since the County has moved to the vote by mail system, participation has increased. For instance, voter turnout was 85% for the Trump - Biden presidential election.

The Mariposa County Elections Office receives lists from the State at least once a month regarding who is deceased and who has moved. Staff also checks obituaries in the local paper and

gets lists from the recorder's office on who has moved. All of this is to make sure voting lists are up to date. The Elections Office sends out ballots about 20 days prior to an election.

The ballot is always the same size. Contests must always remain on the same page; they cannot be split between the front and back of the ballot. For instance, if there had been more candidates for Governor in this election to the extent that they would not all fit on the front page, all candidate names would have instead been printed on the back. Likewise, contests cannot be split between columns.

If a voter has misplaced their ballot or needs a replacement for any reason, they can get a replacement at the Elections Office or at designated places throughout the county. The designated places were chosen because they have sufficient wifi and are covered by the county's Global Protect secure internet system. These places have specific computers and printers for election personnel to use to print on demand ballots. These places are:

- Mariposa County Elections Office, 4982 10th Street, Mariposa;
- Bootjack Fire Department, 3883 Bootjack Lane, Mariposa;
- Greeley Hill Public Library, 10332 Fiske Road, Coulterville; and
- El Portal Public Library, 9670 Rancheria Flat Road, El Portal.

After the initial mailing of ballots, all additional ballots are now printed on demand rather than the County buying extra ballots, saving waste and cost.

When it comes to returning ballots, voters can put their ballots in the mail. Postage is prepaid. The Elections Office will accept ballots postmarked by the election date for up to seven days after the election. In addition to the US Postal Service option, for every election, there are many ballot drop box locations throughout Mariposa County. These include the Elections Department parking lot, Lake Don Pedro Community Services District Office, Yosemite Public Library, Bassett Memorial Library in Wawona, Triangle Market, The Oaks Deli & Gas, and Coulter Cafe and General Store. Days and times of operation for both the voting locations and the drop boxes are always listed on the Mariposa County Current Election web page and publicized via mailers and newspaper advertisements.

Before sending out drop boxes, Elections Office staff secure a numbered seal to each box. The numbers and seals are checked by election staff before the boxes go out, by the members of Public Works delivering the boxes to their various locations on drop off, by the person in charge at the various locations also at drop off, and again by election staff once the boxes are picked up and returned to the Elections Office by Public Works personnel. (The State requirement is for two people to check the seals. Mariposa County added the numbering system and the additional personnel checking the seals for extra security.) Drop boxes at various locations are placed where they can be seen by the person in charge and are chained so that they cannot be moved. They are moved inside at the end of business hours.

The locked ballot boxes are picked up and delivered to the Elections Office by Public Works personnel every three days. Ballots are collected from the locked, permanent ballot drop box outside the Elections Office three times per day. Processing of ballots can begin seven days prior

to the election date. When it is time for processing, ballots go through an Election Management System and an Election Tally System as described in the later sections.

The elections staff team is made up of personnel within the County Treasurer-Tax Collector and County Clerk office. They have a variety of jobs and job titles within this office. Therefore, except on election day, most election work happens after regular business hours and on weekends. The County typically pays the cost of overtime and weekend work during election times. For the 2021 California Governor Recall Election, the State of California paid for all costs related to the election, including overtime and weekend hours.

Everything in the Elections Office is done per California Election Code. All employees who open and count ballots are trained through the State of California. Mariposa election officials have a weekly conference call that includes election officials of all counties and representatives in the Secretary of State's office. These calls involve an open forum at the end to share insights into what is being done even going beyond State law that is working well that other counties might want to implement. Mariposa County is also in constant contact with other similar sized counties to share insights and best practices.

Mariposa County elections staff states that security is its top priority. They are confident the mail-in voting system is extremely secure, more so than the in-person voting system used to be. For instance, now, with mail-in voting, each ballot signature is checked as the ballots are checked in, before they are opened and processed. With the previous in-person system, signatures were not checked until the very end of the process (at the point called canvassing, where staff manually tallies 1% of the ballots).

The Grand Jury believes that Mariposa County has an exemplary, experienced Elections Staff team and concurs that the election system is secure.

Mariposa County Elections Office
4982 10th Street, Mariposa, CA

County Clerk/Registrar of Voters: Keith Williams

Chief Deputy County Clerk: Courtney Progner

Election staff

Grand Jury observers: Grand Jury members

***Election Management System** observation date: Saturday, September 11, 2021*

Grand Jury members watched an election staff member unlock, collect ballots, and relock the permanent ballot box outside the Elections Office. This was the second of the three times per day collections.

Inside the Elections Office, Grand Jury members observed one staff member check each envelope, including name, address, and signature against electronic data on their computer screen. Years ago, the State purchased the hardware and the software involved with this Election Management System (EMS); the County pays for maintenance costs. Grand Jury members agreed

it is an impressive system. Each ballot envelope includes a barcode that election staff scans. This pulls up the registered voter's name, address, and signature. Signatures are based on the voter's registration with the DMV or on a voter registration card. Voters can always re-register their signature. Since a voter might have registered in different ways and at different times throughout the years, the system shows up to six past signatures for the staff member to check against. Signature training is provided to staff members through the State of California and is taught by retired FBI officers.

For any signature problems, the envelope is flagged and set aside. Voters are contacted by Election staff by all means that they have provided to the county. This can include by phone, email, and mail. If there is a mismatch in the signature, a letter is sent with instructions on how the voter can verify their signature, including a signature verification statement that needs to be signed. Likewise, if a ballot is not signed, a letter is sent with instructions to the voter on how to rectify this situation, including an unsigned ballot envelope statement that needs to be signed. Voters can cure both of these situations up to a few days prior to the County's certification of its election results which happens 28 days after an election.

If someone has mailed their ballot from another county, their information is checked to make sure they are not registered to vote in another county.

Staff explained the line on the envelope asking for the name of the person who dropped off a ballot for someone else is there in case someone calls and asks about their ballot. Sometimes, people with a cognitive difficulty might forget that someone dropped off their ballot for them and this reminds them. Or, this can alert both the voter and election staff of a problem that needs to be rectified.

The staff member assigned to checking envelopes against the Election Management System also separates them into stacks by district and by precinct. There are five districts and twenty-five precincts. Precincts used to mostly signify a voter's polling place but now precincts are used as a valuable tool in the ballot "balancing" process. Balancing is the method elections staff use to check that the number of ballots received stays constant throughout the counting process. Since each precinct represents a smaller number of the much larger entire district number, it is easier for Elections Staff to isolate, find, and rectify any mistakes when ballots are batched by precincts.

Once checked and sorted by district and precinct, the ballots go to one or two staff member stations where the envelope is opened, the ballot is pulled out and straightened, the top tab is pulled off if the voter has not pulled off the tab prior to mailing (most do not), the envelope is set to one side, and the ballots are stacked. Once a ballot is checked in and out of its envelope, voters have no way of saying they changed their mind, made a mistake, and cannot request their ballot back or a new ballot. There's no way to tell which ballot is theirs; their ballot is checked in and the voting process is over for them.

Each precinct stack of ballots is secured by rubber band and put into a district bin.

The process of opening ballots, pulling the tab, pulling straight, putting into stacks, etc, is very time consuming.

Per election code, envelopes are kept in storage for 22 months. They are then recycled by Public Works. (Same for ballots.)

When staff is not present, active ballots are stored inside a vault within the Elections Office.

Election Tally System observation date: Sunday, September 12, 2021

A week or more before ballots are ready to go through the electronic Election Tally System made by Dominion and consisting of a special counting/scanning machine and multiple servers and screens, the Chief Deputy County Clerk (CDCC) runs a pre-marked test deck through the system to make sure it reports the numbers as it should. This is a logic and accuracy test. (Mariposa County's CDCC has been working on elections for 18 years. Likewise, all current Elections staff have worked on previous elections.)

The CDCC noted that the prior system completely crashed in 2016. She stated the current system is much better. The County leases it using County funds and some State funding.

On Sunday, elections staff had all the ballots that were opened the day before ready to go through the Election Tally System. One person prepared the ballots, making sure they were straight and even (much like loading paper in a copy machine) and inserted them in batches in the counting/scanning machine. If two pages went in at once or it jammed or stopped for any reason, the screen on the machine reported exactly what the employee needed to do next; ie, re-run the entire batch, re-run the last two sheets, and so on. As each batch went through the machine, the staff member wrote down the number per batch. This was balanced (checked) against the number that appeared on the screen and saved in the database. The machine was cleaned and wiped down between batches to cut down on jams. The Grand Jury members observed that there were very few jams and they were not a problem.

If a ballot had any issue at all, ie, the system can't detect a box as marked, there are two boxes marked, or someone has written in the name of a candidate not on the State's official write-in candidate list, then that ballot was electronically flagged by the system. A list of these ballots showed on the linked computer screen. The assigned staff member clicked on each link in turn. This opened the ballot on the screen, allowing the staff person to see and resolve the problem. If two boxes were marked, the ballot was not counted. If there was a mark but it was faint, the staff member counted it. If someone had written in a candidate name not on the official list (including Gavin Newsom - he is not a candidate; he is the current office holder), then the staff person would void the write-in candidate but the top vote of whether to recall or not recall was still counted. Staff is trained on voter intent. The State has very specific boundaries. If there are questions, multiple trained staff confer to resolve the issue.

As of the Grand Jury's observation day the Sunday before election day, election staff reported about 60% of registered voter ballots received.

After processing, ballots were kept in their precinct bundles and put back into stacks in their appropriate district boxes. Ballots are kept in storage for twenty-two months.

The Grand Jury was told that on election day, given current Covid guidelines, a staff member with a walkie talkie will stay outside the Election Office to lead in anyone who needs a new or replacement ballot. If there is a line, they will ensure there is appropriate distance between voters and that the line moves through the process in one direction and out a separate door.

On election day, ballots continue to be checked in, opened, and processed in batches. Staff stops checking in and opening by 2 PM so that ballots to that point can be processed for preliminary election results to be released to the public at 8 PM via the Election Office website. Remaining ballots go through the process as they are received. Staff expects to stay in the office until about 10 or 10:30 PM on election night at which point the second preliminary results are finalized and released to the public.

Confirmation of results are faxed to the Secretary of State. Once the Secretary of State confirms receipt and reads back numbers for verification, elections staff is finished for election day.

Further numbers are released on Wednesday as additional ballots are checked in and processed.

Ballots that are postmarked by the election date are accepted up to seven days after the election and added to the count.

As a double-check on the Election Tally System, a canvas is done. This means staff performs a manual count of a random selection of districts equalling 1% of the vote. These numbers are checked against the numbers in the Election Tally System database.

Final certification of election results are delivered to the Secretary of State 28 days after the election.

Vote Centers observation dates: Monday, September 13 and Tuesday, September 14, 2021

The day before and on election day, Grand Jury members observed a few of Mariposa County's designated vote centers.

The purpose of a vote center during an election is to be an extension of the elections office for persons wishing or needing in-person services in areas of the County where it is difficult to get to the elections office.

Greeley Hill Public Library Vote Center; Monday, September 13

One grand jury member observed operations at the Greeley Hill Public Library Vote Center. Five volunteers were working there on Monday and would be again on Tuesday during the designated hours of operations. Prior, they had been trained by Elections Office staff.

Volunteers observed Covid protocols when engaging with voters and during ballot drop off. Ballots were examined for proper signature. If multiple ballots were dropped off, the ballots were checked for the accompanying signature of the trusted agent or designee.

If a voter needed a replacement ballot due to a mistake, exchange, or because they did not receive a ballot in the mail, a volunteer would verify registration, check the voter's address, and make corrections as necessary. Once verified, one volunteer generated a tag and passed it to the volunteer tasked with printing the provisional or replacement ballot. Information was checked again and the ballot was printed on the computer and printer system designated for this purpose. The ballot was also logged on a data sheet and then given to the individual. The voter was then directed to a voting area to complete their ballot and to a drop box to insert the completed ballot.

The volunteers at the Vote Center had direct contact with the Elections Office for any inquiries or problems that required election staff assistance.

The Grand Jury noted there was not a lot of turnout as most voters were taking advantage of the ability to mail-in ballots or use the designated drop box locations. The volunteers were very accommodating and friendly and were confident in their required tasks.

Bootjack Fire Department Vote Center, Monday, September 13

There were four volunteers at the Bootjack vote center. They had been trained in every aspect of vote center duties. They each had many years experience volunteering in Mariposa County elections.

Their jobs included a greeter who was the person assigned to the entrance of the center to determine the needs of the voter. With Covid-19 precautions in place, this person first determined if the voter needed assistance at the center or was simply dropping off a ballot. If the voter needed to go into the center, the voter was offered hand sanitizer and given a mask if they did not have one. In either case, dropping off or voting there, the greeter made sure the voter had sealed and signed their envelope, gave them an "I Voted" sticker, and showed them the drop box in which to insert their ballot.

Another staff member was at a second station that included computerized voter information. When voters were directed to this station, the staff person determined the need(s) of the voter. Most commonly, the voter needed a ballot issued as they had either not received one, refused to use the mailed ballot, or had misplaced their ballot. Sometimes, the voter wanted to see what the signature they have on file looks like so they could sign their envelope the same way as they did when they registered. Some voters had a ballot but needed a new envelope and label.

At this second station, the voter provided his or her name, and the staff member looked up their voting record on the electronic system. The computerized information made it possible for the staff member to determine if a ballot was sent and if so, whether that ballot had already been cast (in which case the voter could not vote again; the elections office would be contacted to rectify any discrepancies - the grand jury did not witness this and none had been reported) or if the ballot was returned as undeliverable. The computer system was also able to provide information on whether or not the voter was registered to vote in the current election. The voter was directed to either register if new, or re-register if inactive. These voters were given provisional ballots, meaning their information and signatures would be checked before their ballots were counted. In certain circumstances, the main election office was contacted to clarify a confusing situation and

determine whether a voter could simply be "activated," or if more information was needed to verify the voter.

Once voter information was verified, the staff member at the third station would either print a replacement ballot for the voter onsite, record this to keep track of the number of ballots issued, and direct the voter to a private voting station. Or, if the voter preferred, the voter was directed to a voting station that contained an ICX tablet that they could vote on electronically.

The volunteer at the fourth station directed people with paper ballots to voting booths or enabled the ICX tablets so that people could then vote electronically in private. Some voters wanted to vote in a booth, using their issued ballot, simulating "election day voting." Other voters wanted to cast a "live" ballot electronically. Information from "live" ballots was transmitted to the elections office as the vote was cast, meaning the ballot was immediately counted.

All the volunteers throughout the day answered questions regarding the election process. Once the election was over, the Grand Jury member was told the vote center staff seals and secures all of the ballots and election equipment. Two of the staff return the sealed voting materials to the election's office.

Mariposa County Elections Office Vote Center, Tuesday, September 14

A Grand Jury member was able to observe a number of voters dropping ballots into the permanent ballot drop box outside the Elections Office.

The Elections Office staff had someone in the front lobby, able to see outside all day. This person had a walkie talkie and, in constant contact with office staff, allowed two people into the office at a time to take care of any election-related (or other) business. There were chairs for waiting, and markers on the ground, all following Covid protocols, spaced six feet apart. Traffic flow was through the front door, into the office, and then out the side door. There were writing tables with privacy shields set up outside, under shade awnings. There were two tables set up similarly inside, but these held a screen and printer for those who wished to vote on screen and print their vote. The Grand Jury did not see anyone choose to vote this way.

The Grand Jury witnessed a number of voters requesting and receiving help:

- There were a few people who did not feel it was secure to drop their ballots into the box outside. They were directed to use the box inside the Elections Office instead.
- A few voters did not want to use the mail-in ballots; they wanted to vote in person on a ballot, not on the electronic Dominion system. Staff directed the voters to write Void on both the ballots and the envelopes they had received in the mail and dispose of them. Staff voided the voters' initial ballots in the system, printed new ballots for them, logged this, and directed them to the voting tables to complete their ballots and to the ballot box to deposit their completed ballots.
- One voter was not registered to vote. Staff directed this person to fill out the voter registration form. Once this was completed and returned, staff printed a provisional ballot

and gave the voter instructions. Information on the registration form will be checked before their ballot is counted.

- A few voters never received ballots. Staff had these voters fill out forms, checked their information in the system, corrected mailing addresses if this was the issue, voided original ballots, and printed new ballots for them.
- A husband and wife had signed each other's envelopes by mistake. One had sealed their envelope, the other had not. Staff directed them to sign their names on their appropriate envelopes.

In all cases, Elections Staff was polite, helpful, and resolved each voter's situation.

FINDINGS

- F1. Mariposa County Elections Staff are dedicated to following California Election Code and, at times, go beyond State code. Staff shares best practices with State personnel and similarly-sized counties for considered implementation.
- F2. Election security is a top priority for all Elections staff and volunteers; Mariposa County elections are secure.
- F3. Elections staff and volunteers are dedicated and well-trained.
- F4. Elections staff and volunteers are responsive to the needs of all voters. Staff and volunteers are respectful, polite, and helpful.
- F5. There are adequate means of voting provided throughout the county, including mailing in ballots via US Postal Service postage-paid envelopes, placing ballots in secure ballot boxes, or voting at designated Vote Centers.
- F6. Mariposa County Elections run smoothly and efficiently.

RECOMMENDATIONS

This was not an investigation but rather an observation. The Grand Jury's observations and findings are all positive. We commend the Elections Office staff for their knowledge, efficient and secure processes, and courtesy to voters.

Compliance and Continuity Report: Past Examination, Present Action

SUMMARY

The Mariposa County Civil Grand Jury (MCCGJ) is a group of volunteer citizens who, over the course of a one year term, are tasked with investigating the operations of local government including county government departments and agencies, joint powers authorities, special districts, and school districts. The MCCGJ conducts multiple investigations, many based on public requests. The MCCGJ must also, by statute, inspect local detention facilities each term.

The goal of the MCCGJ is to determine if local government can be made more efficient, effective, and responsive to the needs of our community. If the answer is “yes,” the MCCGJ creates a report that includes findings on items that need to be addressed, recommended fixes, and due dates for responses from the elected officials who can ensure implementation as well as invited responses from relevant appointed officials. Because of the one year term limit of each grand jury, it becomes the responsibility of the next grand jury to track responses.

The 2020-2021 MCCGJ final report¹ included findings and recommendations regarding the following:

- Mariposa County Settlement with the Merced Irrigation District
- Correctional Facility Site Visits - Adult Detention Center
- Mariposa County Sheriff’s Office - Civil Standby
- Lake Don Pedro Community Services District
- Public Works Department - Mykleoaks Subdivision Road Conditions
- Public Works Department - Road Crews
- Yosemite Alpine Community Services District (YACSD)

The 2020-2021 MCCGJ issued 52 findings and 32 recommendations.

This continuity report was completed by the 2021-2022 MCCGJ based on elected and appointed officials’ initial responses to the findings and recommendations of the 2020-2021 MCCGJ Final Report. It also includes the follow up responses those officials made when the 2021-2022 MCCGJ requested further clarification.

The MCCGJ received most of the initial responses from elected officials and entity boards within the required timeframe. Some of the agencies accepted the findings of the 2020-2021 MCCGJ final report and took recommended corrective actions in a reasonable time frame. When they did not agree with a recommendation, some provided explanations. In many instances, it seemed the respondents were not clear about California Penal Code requirements regarding what their responses must include. In these cases, the 2021-2022 MCCGJ requested more detailed responses

¹ The complete text of the 2020-2021 Mariposa County Civil Grand Jury Final Report can be found here: <https://bit.ly/2021MCCGJ>

and, in most cases, received them. All instances of this are noted in Table 1 of this Compliance and Continuity Report.

The MCCGJ commends the Mariposa County Board of Supervisors, Mariposa County District Attorney, the Mariposa County Sheriff's Office, the Lake Don Pedro Community Service District, and the Yosemite Alpine Community Services District for their subsequent answers following requests from the 2021-2022 MCCGJ regarding incomplete or absent initial responses.

GLOSSARY

BOD	Board of Directors
BOS	Board of Supervisors
CDWR	California Department of Water Resources
CPI	Consumer Price Index
CS	Civil Standby
EIR	Environmental Impact Report
GM	General Manager
HR	Human Resources
LDPCSD	Lake Don Pedro Community Service District
MCCGJ	Mariposa County Civil Grand Jury
MCSO	Mariposa County Sheriff Office
MID	Merced Irrigation District
OSHA	Occupational Safety & Health Administration
PC	Penal Code
PIO	Public Information Officer
PM	Project Manager
PRA	Public Records Act
PW	Public Works
PWD	Public Works Department
RWQCB	Regional Water Quality Control Board
YACSD	Yosemite Alpine Community Services District

BACKGROUND

In reviewing past Grand Jury final reports, the 2021-2022 MCCGJ found that none included Compliance and Continuity Reports. These are not mandated, and given the one year time limit of service, each grand jury establishes its top priorities and utilizes its resources accordingly.

Given the responses received to the 2020-2021 MCCGJ Final Report, the current MCCGJ decided it was important this year to prioritize a Compliance and Continuity Report. In some cases, the MCCGJ found respondents had incomplete or missing answers to last year's findings and recommendations and/or a lack of clear understanding of the proper compliance required by

the California Penal Code. In some cases, the jury had questions regarding the entity's timeframe for completing implementation.

Clarifying Penal Code

According to California Penal Code Section §933(a): "Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year."

When findings and recommendations are directed to an entity board, the board is required to respond within 90 days of the release of a grand jury's report. Elected county officials or agency heads, on the other hand, are required to respond within 60 days. (PC §933(c)).

California Penal Code §933.05 mandates how the local governing board and how the elected officials must respond to the findings and recommendations that fall under their jurisdictions.

To begin, for each grand jury finding, the board or official must respond either (PC §933.05(a)):

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the finding; in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Next, for each grand jury recommendation, the board or official must respond (PC §933.05(b)):

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

California Penal Code §933.05 (c) goes on to say:

However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of

the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department. (§933.05 (c))

Goals of Continuity and Compliance Report

By generating this report, the MCCGJ hopes to provide respondents a greater understanding of, and more accurate compliance to, the California Penal Code. The jury believes that if respondents answer questions raised in findings and recommendations as clearly and comprehensively as possible, they will create a higher level of trust and support from the Mariposa County community at large.

This jury also hopes future MCCGJs will make the Compliance and Continuity Report a standing addition to its final reports.

METHODOLOGY

For background, the MCCGJ read through a number of past MCCGJ Final Reports and studied their findings, recommendations, and responses. The 2015-2016 and 2016-2017 Grand Juries investigated findings and recommendations that were part of prior Grand Jury reports.

The jury read, analyzed, and used as guides Continuity and Compliance Reports generated by other county grand juries, especially those highlighted by the California Grand Jurors Association as being especially effective.

The MCCGJ applied the California Penal Code section §933.05 in their analysis of the responses received to the 2020-2021 MCCGJ Final Report findings and recommendations to determine whether the responses were compliant. The jury also noted if any finding or recommendation was missing a response.

The jury sent letters to the respondents it identified as non-compliant asking each to clarify answers, include timeframes, and provide missing responses.

The jury received acceptable responses back from all respondents. These are detailed in Table 1.

DISCUSSION

Using a table format, Table 1 provides a quick summary of each of the 2020-2021 MCCGJ reports, details the findings and recommendations from each report, the responses the grand jury initially received from respondents, and the follow up responses the grand jury received when it requested clarification from the respondent.

FINDINGS OF THE CONTINUITY REPORT

- F1. All respondents adhered minimally to the California Penal Code legal requirements in their responses to requests for follow-up clarification by the 2021-2022 MCCGJ.
- F2. Some respondents failed to indicate agreement or disagreement with the findings. Some respondents who disagreed with the findings did not provide further explanation.
- F3. Some respondents did not make clear commitments (e.g., timeframes, further analysis) for implementing agreeable recommendations in the 2020-2021 MCCGJ Final Report.

RECOMMENDATIONS

- R1. Respondents should review California Penal Code §933 annually in preparation for responding to Grand Jury final reports.
- R2. Respondents should provide a comprehensive and direct response to each finding and recommendation.
- R3. Respondents should include timeframes and commitments to implementing agreeable recommendations.

REQUEST FOR RESPONSES

The following elected county officials are required to respond to the current report within 60 days pursuant to Penal Code sections §933 and §933.05:

- | | |
|-------------------------------------|------------------------|
| ● Mariposa County Auditor | F1, F2, F3, R1, R2, R3 |
| ● Mariposa County Sheriff | F1, F2, F3, R1, R2, R3 |
| ● Mariposa County District Attorney | F1, F2, F3, R1, R2, R3 |

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

The following governing boards are required to respond within 90 days pursuant to Penal Code sections §933 and §933.05:

- | | |
|---|------------------------|
| ● Mariposa County Board of Supervisors | F1, F2, F3, R1, R2, R3 |
| ● Lake Don Pedro Community Services District | F1, F2, F3, R1, R2, R3 |
| ● Yosemite Alpine Community Services District | F1, F2, F3, R1, R2, R3 |

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

The following department head is invited to respond within 60 days:

- Mariposa County Public Works Department F1, F2, F3, R1, R2, R3

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

TABLE 1

A brief overview of each of the 2020-2021 MCCGJ reports, the findings and recommendations of each report, the responses the 2021-2022 grand jury initially received, and the follow up responses the grand jury received after requesting clarification from respondents.

Merced Irrigation District - Settlement Spending	
<p>INVESTIGATION The 2020-2021 MCCGJ received information regarding the status of funds in the 2017 BOS settlement with the Merced Irrigation District. The 2020-2021 MCCGJ conducted a formal investigation including background research and interviews.</p>	
<p>ANALYSIS Responses were received from the BOS on time on 8/3/2021. The MCCGJ sent a follow up request for clarification and/or completion of the recommended action on 12/8/2021. Additional updates were provided and determined to meet the requirements of Penal Code §933.05.</p>	
Findings	Response
F1. The MID Settlement represents a significant opportunity for Mariposa County that should not be missed.	F1-F5. The Board acknowledges and agrees with the findings in the report.
F2. The County has a limited timeframe to utilize the MID settlement funds on water projects.	
F3. A project of this magnitude will take considerable time to complete and yet, to date, little has been done.	
F4. This is a particularly important opportunity as California is prone to frequent and extensive periods of drought.	
F5. Mariposa County needs to develop sustainable water supplies to maintain its current population growth.	
Recommendations	Response
R1. The Board, or lead agency, should assign or hire a professional project manager within 90 days of the publication of this report.	R1. In December 2012, the BOS designated the Water Agency Advisory Committee as the lead agency.
R2. The project manager should complete a feasibility study and present a preliminary plan to the BOS within one year of the publication of this report.	R2. Because of Covid-19, the Water Agency Advisory Committee was unable to meet for an extended period and just recently began meeting again. They are working on a preliminary plan.
R3. The Board should clearly document in current and future budgets how the unrestricted funds shall be spent, within 90 days of the publication of this report.	R3. The BOS has directed the staff to place the unrestricted MID settlement funds into past and current budgets.

Mariposa County Sheriff Office - Civil Standby	
INVESTIGATION The MCCGJ investigated a citizen's complaint and found significant room for improvement in the Mariposa County Sheriff's Office policies and procedures. The MCCGJ conducted a formal investigation which included interviews and background research.	
ANALYSIS Responses were received on-time on 7/22/2021. The MCCGJ sent a follow up request for clarification and/or completion of the recommended action on 10/20/2021. Although the responses followed California Penal Code guidelines, the MCCGJ requested more explanation and clarity on 10/6/21. In addition, some responses gave open-ended timeframes instead of definitive timeframes for action and implementation. The MCSO provided an updated response to Findings 4 and 5 on 10/13/2021. The original and updated responses meet the minimum requirements of Penal Code §933.05.	
Findings	Response
F1. MCSO does not have written policies and procedures related to civil standby that can be provided to the public upon request.	F1. MCSO Policy 429-Civil Disputes was implemented on July 19, 2021 addressing civil services. This policy can be made available if requested and the MCSO is looking at ways to give the public access via the county website.
F2. MCSO Domestic Violence published policies and procedures were created in 1985 and revised only once in 2007.	F2. Regarding the specific finding and recommendation, the MCSO does have a current and up-to-date domestic violence policy. Policy 310-Domestic Violence, implemented on February 25, 2021. This policy can be made available if requested and the MCSO is looking at ways to give the public access via the county website.
F3. MCSO is not compliant with California Penal Code §13701c(7) which states law enforcement response to the civil standby must be in writing, available to the public upon request.	F3. MCSO Policy 429-Civil Disputes was implemented on July 19, 2021 addressing civil services. This policy can be made available if requested and the MCSO is looking at ways to give the public access via the county website.
F4. Based on MCCGJ review of formal procedures published by other California law enforcement agencies and a review of California Penal Codes, the MCSO policies and procedures related to civil standby and domestic violence need to be updated and improved.	F4-F6. The MCSO has corrected the response to the recommendations and findings and will address potential updates to the policy with collaboration from Lexipol and the MCSO policy team.

<p>F5. Special effort should be made to ensure that, whenever feasible, deputies involved in civil standby are not close acquaintances or relatives of the parties involved.</p>	<p>F4-F6. The MCSO has corrected the response to the recommendations and findings and will address potential updates to the policy with collaboration from Lexipol and the MCSO policy team.</p>
<p>Findings</p>	<p>Response</p>
<p>F6. MCSO currently uses Lexipol LLC to manage policies and procedures within the adult and juvenile detention facilities.</p>	<p>F4-F6. The MCSO has corrected the response to the recommendations and findings and will address potential updates to the policy with collaboration from Lexipol and the MCSO policy team.</p>
<p>Recommendations</p>	<p>Response</p>
<p>R1. Mariposa County Sheriff's Office should update its current policies and procedures to include a process for initiating Civil Standby in Mariposa County.</p>	<p>R1. MCSO Policy 429-Civil Disputes was implemented on July 19, 2021 addressing civil services. This policy can be made available if requested and the MCSO is looking at ways to give the public access via the county website.</p>
<p>R2. The MSCO should review and revise its domestic policies and procedures to comply with the California Penal Code. The policies and procedures should be in writing and be available to the public upon request.</p>	<p>R2-R4. Regarding the specific finding and recommendation, the MCSO does have a current and up-to-date domestic violence policy. Policy 310-Domestic Violence, implemented on February 25,</p>
<p>R3. In order to avoid future potential conflicts, whenever feasible, the MCSO should not assign Civil Standbys to officers who are acquainted with or related to the parties involved.</p>	<p>2021. This policy can be made available if requested and the MCSO is looking at ways to give the public access via the county website.</p>
<p>R4. The MCSO should implement a process to continually update all policies and procedures to keep them in compliance with state and federal law within 90 days of publication of this report.</p>	

Mykleoaks Subdivision - Road Conditions
<p>INVESTIGATION</p> <p>The MCCGJ received a formal complaint alleging the conditions and width of roads in the Mykleoaks subdivision were substandard and previous attempts to rectify the situation with the Public Works Department were unsuccessful. The MCCGJ conducted a formal investigation which included interviews, background research, and site inspection (ie, driving the roads in question).</p>
<p>ANALYSIS</p> <p>Responses were received on time from the Public Works Department on 8/3/2021. The MCCGJ sent a follow up request for clarification and/or completion of the recommended action on 12/8/2021. The original and updated responses meet the minimum requirements of Penal Code §933.05.</p>

Findings	Response
F1. It was determined that the roads within the Mykleoaks Subdivision were of acceptable width and condition, with the exception of Bear Trap Lane.	F1 -F2. The BOS response was out of context to the actual wording in F1. The BOS appeared to not agree with the condition of Bear Trap Lane and only advised the Public Works Department to review the condition of Bear Trap Lane.
F2. Bear Trap Lane is in need of repair. It is evident that this section of roadway within the subdivision is consistently plagued with potholes and the underlying cause has not been determined or corrected.	
F3. The PW Department did not supply any records of complaints regarding the roadways in Mykleoaks Subdivision.	F3. The director responsible for providing these records is no longer employed by the County and the interim director has since advised the MCCGJ that road complaint records have been kept via a work order system for more than a decade. The BOS expects all future requests for available records to be fulfilled in a timely manner.
F4. The PW Department has a method of prioritizing the scheduling of road repairs based on available resources, high traffic volume, and public safety.	F4-F5. The BOS noted the development of a Capital Improvement Plan including future road improvements which have been discussed and will be included in future staff work plans.
F5. There is no system in place within the Public Works Department to ensure that the lesser-traveled roads will eventually receive the necessary repairs.	

	Recommendations	Response
	R1. The Public Works Department should review the Bear Trap Lane road conditions, develop a plan to repair the roadway, and inform residents of the estimated date of completion within 90 days of publication of this report.	R1. The BOS advised the Public Works Department to review the condition of Bear Trap Lane. The BOS did not give the Public Works Department a timeframe to accomplish this review.
	R2. The BOS should establish a requirement for the Public Works Department to develop and maintain a complaint log within 90 days of the publication of this report. This complaint log should also contain the final disposition of the complaint.	R2. The director responsible for providing these records is no longer employed by the County and the interim director has since advised the MCCGJ that road complaint records have been kept via a work order system for more than a decade. The BOS expects all future requests for available records to be fulfilled in a timely manner.

Lake Don Pedro Community Services District
<p>INVESTIGATION</p> <p>The MCCGJ investigated a complaint alleging the owner of a lot located within the district boundaries was double-charged the Capital Improvement Plan fee by the Lake Don Pedro Community Service District (LDPCSD). The investigation included reading through past complaints, researching via the internet, conducting site inspections, and interviewing the district general manager.</p>
<p>ANALYSIS</p> <p>Responses were received on time on 8/17/2021. The MCCGJ sent a follow up request for clarification on 10/6/2021. An updated response was provided. The original and updated responses meet the minimum requirements of Penal Code §933.05.</p>

Findings	Response
F1. The MCCGJ could find no hard evidence to support the assertion that a meter had been installed by LDPCSD on the lot. The circumstantial evidence provided by the complainant was inadequate to prove the claim.	F1-F2. The LDPCSD Board of Directors (BOD) agrees with the findings.
F2. LDPCSD staff reviewed the records and confirmed that a water meter was never installed on the lot.	
F3. Prior to the arrival of the current General Manager (GM), the water system was in poor operational condition.	F3. The LDPCSD BOD disagrees partially with the finding. There are many aspects to the water treatment and distribution system. To make a blanket general statement that the entire system was in poor condition without providing specifics is an overgeneralization.
F4. The GM inherited a system with limited spare parts, inadequate tools, and vehicles which were not in working order.	F4. The LDPCSD disagrees partially with the finding. The BOD approves the budget which contains funding for these items recommended by the general manager.
F5. The LDPCSD BOD, the GM and the operations team have worked hard to rectify the deficiencies and bring the service up to a level that the customers of the district deserve.	F5. The LDPCSD BOD agrees with the finding.
F6. The LDPCSD has been responsive to all Public Records Act requests as well as complaints from district customers.	F6. The LDPCSD BOD agrees with the finding.
F7. Some information on the LDPCSD website is out-of-date and inaccurate and unfavorably represents the present status of the district.	F7. The LDPCSD BOD disagrees partially with the finding as the website requires on-going maintenance and updating.
F8. Prior civil grand juries were inundated with complaints regarding the operation, management, and oversight of the LDPCSD. It has been more than two years since MCCGJ has received a complaint.	F8. The LDPCSD BOD agrees with the finding.

Recommendations	Response
R1. Current and future LDPCSD BODs should support the GM's efforts to upgrade the system.	R1. The recommendation has been implemented. The current BOD has always supported the GM's efforts to upgrade the system.
R2. The GM should develop a formal complaint log to assist the district staff in tracking and responding to customer complaints within 90 days of publication of this report.	R2. The recommendation has been implemented as of August 17, 2021.
R3. LDPCSD staff should update the website to accurately reflect the status of key facts such as certification status within 90 days of publication of this report.	R3. The recommendation has been forwarded to the GM and implementation is a work in progress.

Public Works Department - Hostile Work Environment
<p>INVESTIGATION</p> <p>The MCCGJ investigated the Public Works Department (PWD) Road Crews and found five major areas of concern: hostile working environment, human resources structure and behavior, inefficient operational performance, potential fiscal malfeasance, and safety violations. The MCCGJ received information regarding these conditions during introductory meetings with county officials as well as through investigations of formal citizen complaints. The MCCGJ conducted a formal investigation which included interviews, background research, documents from the union, and notes from pertinent individuals.</p>
<p>ANALYSIS</p> <p>Responses were received from the BOS on time on 8/3/2021. The MCCGJ sent a follow up request for clarification on 12/8/2021. The MCCGJ received an updated response on 1/18/22 stating that corrective actions are underway. The original, plus the updated response, meet the minimum requirements of Penal Code §933.05.</p>

Findings	Response
F1. The Human Resources Department has not been regarded as a safe, unbiased, or effective resource for employees.	F1. The BOS disagrees and asserts that it is overly broad and the investigation did not address all activities of Human Resources to make this statement.
F2. Employees of the PWD have resigned or retired due to an unchanging hostile work environment.	F2-F5. The BOS neither agrees nor disagrees. The BOS asserts the remaining findings and recommendations refer to personnel matters and the BOS is obligated under law to keep them confidential.
F3. Many employees are unwilling to speak to the MCCGJ for fear of retaliation.	
F4. Multiple allegations of timecard falsification were made.	
F5. Multiple allegations of OSHA, and safety protocol violations were alleged.	
F6. After repeated requests for PWD policies and procedures, the PWD Director indicated there were none.	

Recommendations	Response
R1. The BOS should ensure that the Human Resources Department be restructured and effectively empowered to protect the best interests of the County and its employees within 90 days of the publication of this report.	R1. In December 2021, the BOS repositioned the Human Resources Department as a division of Administration. This change has improved the ability of the County to recruit qualified Human Resources Directors and is intended to empower Human Resources to objectively pursue the best interests of the County.
R2. The BOS should investigate the allegations of favoritism and a hostile work environment within the Public Works Department within 90 days of this report.	R2-R4. The BOS neither agrees nor disagrees. The BOS asserts the remaining findings and recommendations refer to personnel matters and the BOS is obligated under law to keep them confidential.
R3. The Sheriff's Office should audit and investigate specific allegations of the falsification of timecards and, if verified, the BOS should take corrective actions up to and including termination and prosecution, within 90 days of publication of this report.	
R4. The BOS should make changes in the PWD management structure and establish a work environment improvement plan to increase unity and effectiveness of the Public Works teams within 90 days of publication of this report.	
R5. The PWD should establish a policy and procedures manual, specific to the Public Works Department within 90 days of the publication of this report. The manual should be made available to the public upon request.	R5. The BOS disagrees with R5 stating that there is a policies and procedures manual in place that they are expected to adhere to.

Yosemite Alpine Community Services District
INVESTIGATION The 2020-2021 MCCGJ investigation found numerous areas of concern regarding the management of the Yosemite Alpine Community Services District (YACSD). The MCCGJ determined that YACSD needed to make difficult decisions to ensure a viable future for itself. The MCCGJ conducted a formal investigation which included interviews, background research, and a site visit.
ANALYSIS Responses were received on time on 9/20/2021. The MCCGJ sent follow up requests to the District Attorney for clarification regarding a property owner vote on rate increases on 10/4/2021. An updated response was provided by the District Attorney on 11/3/2021. The County Auditor provided comments on 4/12/2022 following a follow up letter from the MCCGJ. The responses generally meet the requirements per Penal Code §933.05. Additional timelines for requesting support from the California State Auditor are required.

Findings	Response
F1. YACSD infrastructure is 50 years old and needs to be replaced. The quality of water the wells are producing was far less than what the district claimed.	F1. While the YACSD infrastructure will need replacing and/or remediation, the estimated life expectancy is 65-105 years according to the American Water Works Association (Stenstedt, 2019). The YACSD BOD has been discussing the depreciation of assets during the prior two budget cycles and continues to move towards definitive ways of undertaking capital improvement planning. The YACSD cannot respond to the allegation that the district wells were underproducing far less than what the district claimed as the source of this claim is undocumented in the MCCGJ report.
F2. Offers from SilverTip developers that included installing new wells and infrastructure to provide high quality water were rejected by the YACSD BOD.	F2. The YACSD BOD evaluated this offer and attempted to enter into discussions with the developer to move the YACSD wells to Forest Service land and was rebuffed. The YACSD water is pristine and requires no treatment. There is no question that the pristine quality of the water will be degraded by development. The amount of water that the development is projected to use in one month is as much or more than the YACSD uses in an entire year. There is no way that deeper wells placed by the developer will not impact water production by YACSD wells.
F3. The YASCD is understaffed.	F3. The YACSD BOD agrees that the decline of candidates meeting the residency requirements stipulated in its bylaws and willing to serve is an ongoing challenge.

Findings	Response
<p>F4. There is a lack of transparency between the BOD and homeowners, specifically regarding the litigation and proposed settlements with SilverTip developers.</p>	<p>F4. The YACSD BOD disagrees. The MCCGJ has based this finding on allegations of unnamed individuals. To our knowledge, the MCCGJ has not solicited testimony from property owners in support of the YACSD BOD, making the finding unbalanced. Allegations are not automatically true.</p>
<p>F5. YACSD Directors have left the district saddled with a \$514,000 obligation to repurchase their aging water system from Umpqua Bank.</p>	<p>F5. The original loan amount was \$355,000. The YACSD BOD already authorized an additional payment of \$50,000 towards the principle, reducing the amount of interest owed. Securing water access is one of the Board's main functions. The use of the term "saddled" is inflammatory against the YACSD BOD. The YACSD BOD was only able to guarantee the rights for the YACSD to have future access to water through the court system, and that did require funding. It is important to remember that YACSD BOD members are also YACSD customers, subject to the same water rates and fees as everyone in the district. Board members themselves literally live with the decisions they make. The characterization that the YACSD "repurchased their aging water system" is false. The YACSD has maintained unbroken ownership of the water system. The YACSD entered into an Installment Purchase contract with Umpqua Bank. Repayment of the loan is by a pledge of future net revenues. The YACSD BOD agrees that the pipeline is closer to the end of its life than the beginning, but the YACSD water tanks are less than 5 years old.</p>
<p>F6. There have been numerous allegations of California Proposition 26, California Proposition 218, Government Code §1090, and Brown Act violations by YACSD BOD, especially in relation to the Conveyance Agreement and Installment Purchase Contract.</p>	<p>F6. The YACSD BOD disagrees with this finding, which the MCCGJ based upon anonymous allegations. The YACSD BOD provided the MCCGJ with the same documentation provided to the public concerning the legality and transparency of transactions.</p>
<p>F7. Ethics training is required every two years in accordance with AB1234. According to the YACSD website, all board members are overdue in attending this mandatory training.</p>	<p>F7. All board members are in compliance. See: https://yosemitealpinecsd.specialdistrict.org/mandatory-ethics-training-certificates</p>
<p>F8. For fiscal years 2018-2019 and 2019-2020, YACSD is the only entity within Mariposa on the State Controller's "Failure to File " list for Financial Transactions Report.</p>	<p>F8. This has been completed.</p>

Findings	Response
<p>F9. If built as planned, the SilverTip resort would have increased the number of overnight lodging and therefore, the County's Transient Occupancy Tax revenue.</p>	<p>F9. The finding implies that the YACSD BOD is responsible for the SilverTip project not proceeding as Mariposa County had hoped. This is perplexing as the conditional use permit was issued by the BOS in 2003. The SilverTip developer defaulted on a \$5.6 million dollar loan in 2010, declared bankruptcy, and the SilverTip property was put up for auction. The auction certainly slowed development. It also called into question the integrity of the developer to negotiate in good faith with the YACSD BOD. How is it remotely conceivable that this multi-million dollar corporation reached the point of insolvency because of a tiny CSD defending its water rights?</p>

Findings	Response
<p>F10. The EIR reports regarding water quality and quantity found SilverTip wells would be drawing water from a source isolated from YACSD wells. Likewise, according to analysis, treated effluent SilverTip would not contaminate YACSD wells.</p>	<p>F10. "The amount of water in the rocks surrounding a hard rock well is small. Groundwater levels and the well's yield can decline dramatically during the summers of dry years," (California Department of Water Resources [CDWR], 2011). "Hard rock wells require a source of recharge and a large quantity of water in storage," (CDWR, 2011). Drilling must be done at a very specific point in a major fracture zone containing plenty of water and water must be continually recharged. A neighboring well can interfere with one's well, depending on connections between rock fractures. Interference between neighboring wells is difficult or impossible to predict in advance (CDWR, 2011). On page 2 of its response, the Central Valley California Regional Water Quality Control Board notes that the map presented by the developer of effluent spray field areas "is not of the scale to definitively show the individual areas and was not intended to indicate that any of the wells on the property would be within the spray field areas." The responsibility of verification that the YACSD wells not be contaminated by effluent was deferred to a future Title 22 Use Area Management Plan. "Connection of the aquifers is deemed likely" (RWQCB, 2007). Degradation of the aquifer is assumed (RWQCB, 2007). Because of the lack of documentation concerning the construction of the YACSD wells, an adverse impact of treated effluent on those wells was "unlikely" (RWQCB, 2007 page 4, paragraph 4). Groundwater or surface water "should not be unreasonably degraded," (RWQCB 2007, page 13). In their statement of overriding considerations, the Mariposa BOS found that not all of the project's environmental impacts can be mitigated, but that the project will generate "substantial revenues" (2003 Attachment C). Environmental degradation is apparently acceptable when none of the persons with authority concerning the development plans for the SilverTip project will have to live with the degradation of their own drinking water.</p>
<p>F11. MCCGJ believes there have been Brown Act violations by the YACSD BOD.</p>	<p>F11. The YACSD BOD has adhered to the Brown Act. The MCCGJ report has not presented evidence of Brown Act violations.</p>
<p>F12. Comprehensive water testing has not been done since 2002.</p>	<p>F12. This is a misleading statement implying that the YACSD is out of compliance. The MCCGJ report itself affirms that the YACSD is in compliance with water testing regulations (2021, page 50, paragraph 3).</p>

Findings	Response
F13. YACSD bylaws state that they do not follow the letter of the law.	F13. The YACSD bylaws were thoughtfully composed and reviewed by Counsel. Over the past 20 years at least 8 different persons have served on the BOD. Their lengths of service have varied. Some terms have overlapped and others have not. The notion that this variable group of persons crafted a document to be deceptive with an intent to violate laws is illogical.
F14. YACSD is so small they are unable to staff all positions as required by state law.	F14. The BOD will investigate contracting with a manager as part of the 2022-2023 and 2023-2024 budgeting process, which will be completed by June 30, 2022.
F15. The district's bookkeeping and confidential records are kept on a personal computer.	F15. Records have been backed up on a thumb drive. The BOD is investigating the purchase of cloud-based software on which to store records. A decision will be made at the regular scheduled BOD meeting on December 4, 2021. The purchase of a designated computer seems infeasible as there is no district office and records must be accessed by more than one person.
F16. The current District 5 Board Supervisor has never been invited to nor attended a YACSD BOD meeting.	F16. All YACSD BOD meetings are legally noticed. With the exception of legally noticed closed sessions, they have always been open to all members of the public. While it is not the responsibility of the YACSD BOD to assure that a member of the Mariposa County BOS attends properly noted YACSD BOD meetings, a specific invitation to the current supervisor has been given, including placing him on the YACSD email list so that he receives all communications sent to YACSD customers.

Recommendations	Response
R1. The MCCGJ recommends the State Auditor establish a high-risk local government agency audit in accordance with Government Code §8546.10. The County Auditor should determine the need for a state audit within 90 days of the publication of this report.	R1. The County Auditor reports Government Code §8546.10 does not grant any authority to the County Auditor to establish a high-risk local government agency audit program for the purpose of auditing a local government agency. This authority is granted to the California State Auditor. The County Auditor agrees with the recommendation of the MCCGJ that an audit by the State should take place.
R2. The MCCGJ recommends the District Attorney (DA) investigate allegations of Proposition 218 violations by YACSD BOD with regard to the Conveyance Agreement and Installment Purchase Contract within 90 days of the publication of this report.	R2-R4. The DA is referring the matter to the Office of the California Attorney General - Special Prosecutions Unit.
R3. The MCCGJ recommends the DA investigate allegations of Proposition 26 violations by the YACSD BOD involved in the Conveyance Agreement and Installment Purchase Contract within 90 days of publication of this report.	
R4. The MCCGJ recommends the DA investigate allegations of Brown Act violations by YACSD BOD serving between 2001 and 2018 within 90 days of the publication of this report.	
R5. The MCCGJ recommends AB1234 mandatory ethics training be completed by all YACSD BOD members within 90 days of publication of this report.	R5. All BOD members are in compliance.
R6. The MCCGJ recommends that the YACSD BOD review and revise the District's bylaws to improve the management actions and allow for more property owners to participate in the District's functions within 90 days of the publication of this report.	R6. The BOD will review and vote on a revision of the YACSD bylaws at its December 4, 2021 meeting to amend the language to state that registered voters of the YACSD may serve on the BOD.
R7. The MCCGJ recommends that the County Controller determine if the State Controller should appoint a qualified accountant to make an investigation and to obtain the information required in accordance with Government Code §12464 (a) within 90 days of the publication of this report.	R7. Government Code §12464(a) also references authority that the State Controller has to appoint a qualified accountant to make an investigation to obtain district reports not filed in a timely manner. The County Auditor agrees with the recommendation of the MCCGJ that the State Controller do this.

Recommendations	Response
<p>R8. The MCCGJ recommends that all YACSD BOD members obtain a "Certificate in Special District Governance " within 180 days of the publication of this report.</p>	<p>R8. The BOS asserts that it is not financially feasible for the YACSD BOD to obtain this certificate. The required courses are offered at a conference that would cost the YACSD thousands of dollars to attend and pay registration fees. There are no other opportunities to take all of the required courses.</p>
<p>R9. The MCCGJ recommends district records be backed up digitally on an appropriate device, or in the cloud within 90 days of publication of this report.</p>	<p>R9. Records have been backed up on a thumb drive. The BOD is investigating the purchase of cloud-based software on which to store records. A decision will be made at the regular scheduled BOD meeting on December 4, 2021. The purchase of a designated computer seems infeasible as there is no District office and records must be accessed by more than one person.</p>
<p>R10. The MCCGJ recommends that YACSD BOD invite the District 5 Supervisor to their board meetings.</p>	<p>R10. While it is not the responsibility of the YACSD BOD to assure that a member of the Mariposa County BOS attends properly noted YACSD BOD meetings, a specific invitation to the current supervisor has been given, including placing him on the YACSD email list so that he receives all communications sent to YACSD customers.</p>

Investigative Reports



Airport Advisory Committee: Board of Supervisors Meeting Discussion

SUMMARY

The 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) investigated a complaint alleging that an Airport Advisory Committee (AAC) topic was placed on a 2021 Board of Supervisors (BOS) agenda without following proper procedure, including not giving suitable notice to the AAC. Additionally, the complainant was concerned the BOS discussion would address purported inappropriate conduct at past AAC board meetings, leading to unwarranted defamation of character of some AAC board members.

The MCCGJ conducted a formal investigation including background research, interviews, and review of emails and meeting minutes.

The MCCGJ found BOS staff followed the correct procedure in placing the AAC-related agenda item on the BOS meeting agenda. Additionally, the discussion of the item at the BOS meeting had to do with policy and procedures, not AAC board member conduct. There was no basis for the initial complaint.

Through interviews, the MCCGJ did find, however, that the BOS needs to follow County policy in addressing alleged inappropriate conduct complaints.

GLOSSARY

AAC	Airport Advisory Committee
BOS	Board of Supervisors
COB	Clerk of the Board
MCCGJ	Mariposa County Civil Grand Jury

BACKGROUND

Investigating whether or not the BOS is following its policy and procedure when it comes both to including items on BOS agendas and giving proper notice is in the grand jury's purview. The grand jury was also concerned about potential improper behavior at AAC meetings and the complainant's charge of defamation of character on the part of the BOS. The grand jury decided to investigate.

METHODOLOGY

The MCCGJ requested the Clerk of the Board (COB) provide information explaining the policy and procedure for creating an agenda item for a BOS meeting. The COB gave the MCCGJ a document called, "Agenda Item Tutorial," that provided an extensive explanation of the

preparation, type, and execution of an agenda item, giving the MCCGJ a thorough understanding of the process of generating an agenda item and its final inclusion on a BOS meeting agenda.

The MCCGJ interviewed the COB, specifically asking about the August 17, 2021, BOS Regular Meeting Agenda item “J. 3. Clerk of the Board of Supervisors-Discussion and Direction to Clarify the Airport Advisory Committee Purpose.”

The MCCGJ reviewed the memo from the COB to the BOS regarding AAC Discussion and Direction, “Recommendation and Justification,” included as an attachment in the August 17, 2021, BOS meeting packet. This memo highlighted one of the concerns mentioned in the complaint regarding committee discord. The memo also indicated a lack of follow up to issues related to the County Discrimination and Harassment Policy.

The MCCGJ studied a variety of additional documents, including BOS agendas, COB correspondence, committee correspondence, and items related to AAC history. The Mariposa County Resolution 93-387 regarding the formation of the AAC was helpful in understanding the origins and structure of the AAC, as was Mariposa County Ordinance No. 925 entitled, “Airport Rules and Regulations,” dated September 1997.

Finally, the MCCGJ examined the “Mariposa County Policy Against Discrimination and Harassment in the Workplace” document found on the County website as part of its investigation.

DISCUSSION

The MCCGJ began by investigating whether or not the August 17, 2021, BOS Regular Meeting Agenda item “J. 3. Clerk of the Board of Supervisors-Discussion and Direction to Clarify the Airport Advisory Committee Purpose” had been placed on the BOS agenda following policy and procedure. After speaking with the COB and reviewing the document entitled, “Agenda Item Tutorial” the COB provided, the MCCGJ concluded the item had been placed on the agenda appropriately.

The MCCGJ then looked into whether the AAC had been given sufficient notice of the BOS agenda item. The COB had attempted to notify the AAC committee chairperson of the item through an email sent on August 4, 2021. Unfortunately, that email wasn’t read by the AAC chairperson prior to the AAC’s own August 11, 2021 meeting. The AAC chairperson did, however, respond to the email after the meeting acknowledging that two supervisors had made an announcement about the BOS agenda item at the August 11, 2021 AAC meeting.

The MCCGJ also found a reference to the August 17, 2021 BOS agenda item in the minutes from an August 11, 2021 Mariposa County Republican Central Committee meeting. Both a Supervisor and a member of the AAC were at this meeting.

All of this information makes it apparent that the AAC was aware of the BOS agenda item prior to the August 17 meeting.

The grand jury also looked into whether or not the August 17, 2021, BOS Regular Meeting Agenda item “J. 3. Clerk of the Board of Supervisors-Discussion and Direction to Clarify the Airport Advisory Committee Purpose” had anything to do with AAC board member conduct.

In reviewing the memo from the COB to the BOS regarding AAC Discussion and Direction, “Recommendation and Justification,” the grand jury found it only alluded to the AAC environment and, more importantly, was an attempt to clarify the actual roles of committees in Mariposa County. From the minutes, it is clear the item included discussion of Title 19 of Mariposa County Code (Airport Operations). Direction was given to the COB to bring the item back, clarifying that the AAC’s purpose in considering airport operations is meant to be at the policy level and in connection with consideration of the Airport Master Plan. The BOS agenda item clearly had to do with a policy issue. It is not the MCCGJ’s purview to make suggestions about county policy.

While researching and conducting interviews, however, the MCCGJ did find that heated conflict and conduct at AAC meetings. Over several years, complaints from resigning AAC board members had been discussed verbally with county-level employees. The complaints of improper meeting conduct were shared with the COB who is a county manager. The COB confirmed the complaints of the resigning AAC members. The complaints were mentioned in the COB’s memo attached to the August 17, 2021 BOS meeting packet. The memo and our interviews indicate there was no follow up to these verbal complaints. The memo written by the COB confirms that the complaints had not been addressed by County staff to date.

According to the “Mariposa County Policy Against Discrimination and Harassment in the Workplace” policy, “Any supervisor or manager who receives a complaint of harassment has a duty to follow this policy... Upon receipt of a complaint, the County will conduct a timely investigation to determine the facts and to identify any appropriate corrective action.” It is not clear from the interviews if a formal complaint was filed with a supervisor or manager within one year of the alleged harassment incident(s).

The MCCGJ commends the COB who was extremely helpful in providing material in the form of pertinent email correspondence, tutorials, and explanations to all MCCGJ questions.

FINDINGS

- F1. The August 17, 2021, BOS Regular Meeting Agenda item “J. 3. Clerk of the Board of Supervisors-Discussion and Direction to Clarify the Airport Advisory Committee Purpose,” was put on the BOS agenda following policy and procedure.
- F2. In regards to this agenda item, the COB made a good faith attempt to inform the AAC chairperson prior to the BOS meeting.
- F3. Supervisors informed the AAC board of the BOS agenda item at an AAC meeting prior to the BOS meeting.
- F4. COB and county staff members were aware of the allegations of misconduct at AAC board meetings, but did not take timely action to investigate.

RECOMMENDATIONS

- R1. The County should follow the “Mariposa County Policy Against Discrimination and Harassment in the Workplace” policy when made aware of the type of allegations noted in the memo from the COB to the BOS included as an attachment to the AAC agenda item in the August 17, 2021, BOS meeting packet.
- R2. County employees and agencies should be made aware that they must file formal written complaints with a County staff supervisor or manager per the “Mariposa County Policy Against Discrimination and Harassment in the Workplace” policy in order to have the issues addressed in a timely manner.

REQUIRED RESPONSES

The following governing boards are required to respond within 90 days pursuant to Penal Code sections §933 and §933.05:

- Mariposa County Board of Supervisors F4, R1, R2
- Airport Advisory Committee F1, F2, F3, F4, R1, R2

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

The following appointed official is invited to respond within 60 days:

- Clerk of the Board F4, R1, R2

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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County Process for Contracting Outside Services: Coulterville Visitor Center Operations

SUMMARY

The 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) received a complaint claiming that when the County had posted a Request for Proposals (RFP) for the Coulterville Visitor Center Operations service in 2020, the County had been biased in its choice of vendor. Further, when the County chose to renew the contract in 2021 rather than opening a new RFP process, the County unfairly excluded interested parties from bidding and showed favoritism to certain individuals.

Upon examination, the MCCGJ found the Board of Supervisors (BOS) had approved the contract for the Coulterville Visitor Center Operations based on the recommendation of an RFP review panel. There may have been an appearance of conflict of interest, but no policy guidelines were broken.

The County's Chief Administrative Officer (CAO) had acted within his authority regarding the contract renewal. There was no evidence of improprieties in the decision to continue the agreement.

In the course of the investigation, however, the MCCGJ found that the County does not have a set of uniform policies and procedures for contracting outside services across County departments. This is in violation of County code. It also causes some in the community to mistrust both the process and the people making the decisions.

The MCCGJ believes the County's development of a standard set of policies and procedures for contracting outside services, in the form of a Procedures Manual, to be used across all County departments will meet the code guideline. It will also clarify the process both to employees and potential contractors. This will lead to greater trust in County government.

GLOSSARY

BOS	Board of Supervisors
CAO	Chief Administrative Officer
MCCGJ	Mariposa County Civil Grand Jury
RFP	Request for Proposal

BACKGROUND

Mariposa County develops Requests for Proposals (RFPs) for soliciting goods or services from outside contractors. These documents announce the business opportunity to qualified contractors. RFPs are posted on the County's website ([Bid Postings • Mariposa County • CivicEngage](#)). Resulting bid proposals are evaluated per the specific requirements of the project and qualifications of the bidder, as well as the best value for the use of County funds..

In 2020, the County posted an RFP for contractor services for Coulterville Visitor Center Operations. The County selected the Coulterville Cafe and General Store to operate the Coulterville Visitor Center from January 2021 to October 2021. The Chief Administrative Officer (CAO) renewed the contract through 2022.

The MCCGJ received a complaint claiming the County had shown bias and favoritism in its choice of vendor in 2020. The complaint also alleged that the process for renewing the contract in October 2021 unfairly favored the Coulterville Cafe and General Store. The complainant noted that an RFP would have opened the competitive bid process to other interested parties.

The accusation that the County had not followed its policies and procedures is in the purview of the civil grand jury. The MCCGJ decided to investigate.

METHODOLOGY

The MCCGJ conducted an investigation which included background research, interviews, and site visits. County officials made presentations to the MCCGJ that provided insight and direction for this investigation.

The MCCGJ completed the following as part of its investigation:

- Reviewed RFPs from a variety of County departments to compare their different approaches to the process. The RFPs included:
 - Coulterville Visitor Center Operations
 - Enterprise Resource Planning System Replacement Consultants
 - Visitor Center Management Services in Mariposa
- Reviewed applications for a construction project bid for Hornitos Road.
- Reviewed the following BOS documents related to the Coulterville Visitors Center:
 - Resolution Recommendation and Justification (BOS Meeting 10/27/2020),
 - Action Summary Minutes (BOS Meeting 10/27/2020)
 - Contracts
 - [Mariposa County Purchasing Code Chapter 3.08](#).
- Reviewed bids submitted by potential contractors for the Coulterville Visitors Center, comparing them and noting the differences.
- Visited the Coulterville Visitor Center and spoke with local businesses and citizens.
- Researched local newspaper articles related to the Coulterville Visitors Center bid packet.
- The MCCGJ reviewed emails and correspondence between County officials and competitive bidders related to Coulterville Visitor Center Operations.
- Corresponded directly with County officials and bidders.

DISCUSSION

A visitor center has been operating in Coulterville since October 14, 2014. The original contract was awarded by the County to Sara Zahn following a competitive bid process (Resolution 14-531). The name on the contract was later changed to the Jeffrey Hotel Incorporated (Resolution I 4-617, December 2, 2014). The contract was renewed annually through 2016 in accordance with Mariposa County Purchasing Code Chapter 3.08, Section 3.08.090:

All requests by a using agency for contractual services require a written contract. The purchasing agent shall have authority to approve contracts for services not exceeding a term of one year. The board of supervisors may negotiate contracts for any services as it determines is necessary. (Purchasing Code 3.08.090)

The code also establishes the CAO as the purchasing agent.

In 2016, the contract with Jeffrey Hotel Incorporated was terminated prior to the original ending date and a new contract was established with Nina Mimnaugh on April 1, 2017, continuing through June 30, 2017. The operational cost was \$6,650.

The County renewed the contract for Coulterville Visitor Center Operations with Ms. Mimnaugh each year through 2020. The contract for the period of July 1, 2019 through June 30, 2020 was approved at an operational cost of \$27,000. The contract was terminated prior to completion.

On September 22, 2020, the County issued an RFP for Coulterville Visitor Center Operations. Four bids were received and evaluated by a three-person panel consisting of the CAO and two members of the BOS. The full BOS approved the panel's recommendation at a weekly meeting. The County issued a contract for the operation of the Visitor Center by the Coulterville Cafe and General Store from November 1, 2020 through October 31, 2021. Operational costs were \$23,400. The County renewed the contract for the period of November 1, 2021 through October 31, 2022. Operational cost was set at \$25,670.

The MCCGJ concluded there was no basis for the second part of the complainant's allegation that the County had not issued an RFP and opened the bidding process for this service. Per purchasing Code 3.08.090, the County and CAO followed County policy and procedure when renewing the Coulterville Visitor Center Operations contract for an additional year.

The complainant had also claimed that the three person panel used to evaluate the RFPs in 2020 included members with personal ties and vested interest in certain bidders. The MCCGJ could find no proof of this.

The MCCGJ did find, however, through a County official's presentation to the grand jury, a search through the County website, and email correspondence with County staff that the County lacks a set of policies and procedures for the competitive bid process that is consistent across departments. Currently, the County allows each department to exercise discretion in the following:

- which contracted services need to go through a bid process;

- the makeup of the RFP review panel;
- criteria used to analyze RFPs.

This has created a credibility problem for the County when it comes to public perception of its RFP and contracting processes.

Moreover, according to Mariposa County Purchasing Code Chapter 3.08, Section 3.08.040 (C): “The purchasing agent shall establish policies and procedures to be used by all county departments. (Ord. 1124 Sec.I, 2017).”

Through presentations and interviews, the MCCGJ is aware that the CAO is working on remedying this, but the jury is unaware of a timeline for completion.

The MCCGJ suggests that the County needs to adopt a consistent set of guidelines used across all departments that is transparent in the processes involved, including a fair method of creating an RFP review panel and the criteria for final selection. The jury believes this will ensure a fair RFP and contracting process, encourage more participation by potential outside contractors, and increase citizen’s trust in County government.

Finally, as part of this investigation, the MCCGJ visited the Coulterville Visitor Center Operations in the Coulterville Cafe and General Store. It was a positive experience. Ample tourist information was available and the Visitor Center was operating within the guidelines of its agreement with the County.

FINDINGS

- F1. When it comes to contracts for outside services, the County does not have a set of policies and procedures used by all County departments. This is in violation of County Purchasing Code Chapter 3.08, Section 3.08.040 (C).
- F2. In 2021, the CAO used his authority as purchasing agent to renew the Coulterville Visitors Center Operations contract.

RECOMMENDATIONS

- R1. The CAO should develop a set of policies and procedures for contracting outside services to be used by all County departments, consolidating them into a manual within 90 days.

REQUEST FOR RESPONSES

The following governing boards are required to respond within 90 days pursuant to Penal Code sections §933 and §933.05:

- Board Of Supervisors F1, F2, R1

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

INVITED RESPONSES

The following appointed official is invited to respond within 60 days:

- Chief Administrative Officer F1, F2, R1

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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County Cemetery Operations

SUMMARY

The MCCGJ received a complaint indicating that the family wanted to inter their deceased loved one in the Mariposa Town Cemetery but faced a number of obstacles. The obstacles included initial difficulty in finding information about the interment process and, soon after, receiving incorrect information from a Public Works employee. The interment process for their loved one took over a year and ultimately ended in the family interring their loved one's remains in an Oakhurst cemetery.

The MCCGJ investigation confirmed there are issues with the County's process of communicating with Mariposa County residents about interment in one of the three county cemeteries: Coulterville, Catheys Valley, and Mariposa Town.

Further, while the County should have three cemetery committees, only two are currently active.

The MCCGJ uncovered additional issues with all three County cemeteries involving inconsistent upkeep and a lack of guidelines for employees to follow when processing citizens' burial requests.

This grand jury report outlines all the issues uncovered as the result of our investigation and offers recommendations for the County to rectify the situation.

GLOSSARY

CDCR	California Department of Corrections and Rehabilitation
BOS	Mariposa County Board of Supervisors
MCCGJ	Mariposa County Civil Grand Jury
Public Works	Mariposa County Public Works Department
Mt Bullion CC39	Mount Bullion Conservation Camp #39
Parks and Recreation	Parks and Recreation Division

BACKGROUND

Mariposa County is responsible for three county cemeteries: Coulterville, Catheys Valley, and Mariposa Town. These cemeteries are managed by cemetery committees appointed by the County Supervisor representing their respective district.

Cemetery committee members are appointed for three-year terms. The committees maintain records, site maps, and are responsible for providing the Parks and Recreation division of the Mariposa County Public Works Department with plot locations and completed burial form.

Each cemetery committee has a set of requirements for eligibility for interment and plot allocation. Burials require forms which include plot number, name, date of death, date of burial,

and place of burial and cremains interred in the public cemetery. Parks and Recreation processes the forms and maintains a database for each public cemetery.

Public Works contracts with Mount Bullion Conservation Camp #39, California Department of Corrections and Rehabilitation, to trim weeds and clean up the County cemeteries before Memorial Day each year. Public Works responds to emergency requests from the cemetery committees for services such as removing a tree that falls on a fence or headstone.

The MCCGJ received a complaint from a local family member of a deceased loved one detailing difficulties faced in trying to navigate the process of securing a burial plot in the Mariposa Town Cemetery with various Mariposa County department personnel. The process took over a year and ultimately ended in having the family interring the remains in an Oakhurst cemetery. The complaint raised questions regarding County processes for securing a burial site that the MCCGJ felt it should investigate.

METHODOLOGY

The MCCGJ investigation included:

- Interviews with
 - the Director of Public Works;
 - Parks and Recreation Supervisor.
- Email correspondence with Catheys Valley Cemetery Committee and Coulterville Cemetery Committee forepersons
- Reviewing
 - County resolution establishing the cemeteries;
 - Mariposa County Ordinance No. 1012, Sections I, 8.48.040, 8.48.050, 8.48.060, 8.48.070 outlining cemetery regulations;
 - Mariposa County Interment Form.
- Visiting the Mariposa Town Cemetery.
- Contacting the Ivers and Alcorn Funeral Home in Mariposa regarding Mariposa County burial options information given to family members.

DISCUSSION

The MCCGJ received a complaint that indicated that the family of a local deceased person wanted to inter their loved one in the Mariposa Town Cemetery. They faced a number of obstacles including initial difficulty in finding accurate and readily available information. The MCCGJ investigation uncovered additional issues with all three County cemeteries involving inconsistent upkeep and a lack of guidelines for employees to follow when processing citizens' burial requests.

Lack of Information

The complainant faced difficulty in finding information regarding interment at the Mariposa Town Cemetery.

The MCCGJ investigation found that public information regarding the three Mariposa County cemeteries is not readily available or easy to find. In looking through the Mariposa County website, the jury found the term “cemetery” does not show up on any of the website pull-down menus. Additionally, under the Government/Boards & Committees section of the County website menu, the cemetery committees are not listed. Finally, looking at various Department and Division pages on the website, “Cemetery” is not listed anywhere. Simply looking through the County website, information about the three County cemeteries cannot be found.

The MCCGJ then conducted a direct search of the term “cemeteries” on the Mariposa County webpage. This brought up a number of links including one to a page listing the three cemeteries. On this page, cemeteries fall under the Parks and Recreation division of the Public Works Department. However, this web page fails to mention the cemetery committees. Instead, it simply directs people to call the Parks and Recreation office for additional information. We found through our own experience, however, that it is difficult to reach anyone in the Parks and Recreation office on the phone.

It would help the citizens of Mariposa County if the County would place links to cemeteries and cemetery committees in the appropriate places on its website. It would also be helpful for the County to provide information about the interment process directly on the website rather than requiring the public to make phone calls to Parks and Recreation.

Non-functioning Committee and Incorrect Information

The complainant received incorrect information regarding interment in the Mariposa Town Cemetery. The complainant spoke to a staff member at Public Works and was told there were no plots available. The complainant therefore looked into securing a spot in an Oakhurst cemetery. The complainant next spoke to a Public Works staff member about receiving financial assistance for the out-of-county interment. This Public Works staff member, a different person from the original contact, surveyed the Mariposa Town Cemetery and found a number of plots available, approximately 25, in an area that needed to be cleared of brush. The MCCGJ’s investigation points to a number of issues that need to be addressed.

1. The BOS needs to reactivate the Mariposa Town Cemetery Committee.

From our research, the MCCGJ knows there is supposed to be a committee for each of the three County-managed cemeteries.

The MCCGJ communicated with both the Catheys Valley and Coulterville Cemetery Committees. We found these committees are true leaders in voluntarily serving their communities providing the emotionally difficult service of helping community members through the burial process. The MCCGJ was truly impressed with the pride and diligence they bring to their work.

Multiple interviewees, on the other hand, confirmed the Mariposa Town Cemetery Committee is not active at this time. Instead, Parks and Recreation staff, and at times Public Works staff,

handle all requests for burial in the Mariposa Town Cemetery. The lack of a functioning Mariposa Town Cemetery Committee contributes to poor communication, misinformation, and a lack of clarity surrounding the burial process in town. The MCCGJ urges the BOS to recruit and fill missing committee positions and reactivate the Mariposa Town Cemetery Committee.

2. Public Works and Parks and Recreation need a set of guidelines for handling interment requests.

The complainant spoke with multiple Public Works staff members and was given different information from each. To fix this problem, the County should develop a set of guidelines that all staff members, no matter their department or division, use when speaking to and following up with members of the community regarding the interment process. The guidelines might include identifying a point of contact in Parks and Recreation or the cemetery committee for fielding community requests regarding interment. Guidelines might also include a process for Parks and Recreation staff to check for available gravesites when none seem to be available.

In addition, as part of our investigation, the MCCGJ called the local mortuary, Ivers and Alcorn Funeral Home, and asked if burial plots are available in the Mariposa Town Cemetery. The jury members were told there are no available plots. This incorrect information leads to another item that could be addressed with a set of cemetery guidelines: when more plots become available in a cemetery, a staff or committee position could be designated to inform the local mortuary.

Cemetery Maintenance Issues

In speaking with the Public Works Director, the MCCGJ learned that the land for the County cemeteries was donated years ago and no funds came with the donated lands for upkeep.

In corresponding with the Coulterville and Catheys Valley Cemetery Committees, the MCCGJ learned that the annual cemetery upkeep performed by Mt Bullion CC39 is not enough. Additionally, cemetery committees' requests for assistance and maintenance are not always responded to in a prompt manner.

The MCCGJ recommends Parks and Recreation staff work with current cemetery committee members to address annual upkeep and maintenance needs and, until the Mariposa Town Cemetery Committee is back up and running, staff should assess the needs at the Mariposa Town Cemetery.

The MCCGJ urges the BOS to increase the budget line item for the three cemeteries to adequately cover upkeep and maintenance.

Conclusion

The MCCGJ's investigation found a number of items the County needs to address regarding the three cemeteries it manages. These items are listed in the Findings section with suggested solutions listed in the Recommendations section.

FINDINGS

- F1. Information about Mariposa County cemeteries, cemetery committees, and the interment process is difficult to find and is very limited.
- F2. There is no active Mariposa Town Cemetery Committee to effectively manage public requests for interment.
- F3. The County does not have a set of guidelines for County staff to use to respond to public inquiries regarding interment at its three cemeteries, leading to the public sometimes receiving erroneous information.
- F4. The upkeep of the three County cemeteries is insufficient.

RECOMMENDATIONS

- R1. The Board of Supervisors should direct staff to add links to, and information about, Mariposa County cemeteries, cemetery committees, and the interment process to the County website within the next three months.
- R2. The Board of Supervisors should re-establish a cemetery committee for the Mariposa Town Cemetery within the next six months.
- R3. The County should work with the cemetery committees to develop a set of guidelines for staff and committees to use to respond to public inquiries regarding interment at its three cemeteries within the next six months.
- R4. The BOS should direct the Parks and Recreation staff to work with current cemetery committee members to develop a plan for regular upkeep and maintenance needs and, until the Mariposa Town Cemetery Committee is back up and running, staff should assess the needs at the Mariposa Town Cemetery. The BOS should work with staff to determine an adequate budget for cemeteries to cover upkeep and maintenance for the 2024 budget.

REQUEST FOR RESPONSES

The following governing boards are required to respond within 90 days pursuant to Penal Code sections §933 and §933.05:

- Mariposa County Board of Supervisors F1, F2, F3, F4, R1, R2, R3, R4

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refusal, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

INVITED RESPONSES

The following appointed official is invited to respond within the next 60 days.

- Director of Public Works Department F1, F2, F3, F4, R1, R2, R3, R4

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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John C. Fremont Healthcare District Board Meeting Violations

SUMMARY

The Mariposa County Civil Grand Jury (MCCGJ) received a complaint regarding improperly worded agendas and improper actions at John C. Fremont Healthcare District (JCF) board meetings.

The MCCGJ investigated and found that, indeed, there are multiple instances of the JCF board not adhering to the Ralph M. Brown Act, Health and Safety Code §3200-32499.4, and Government Code §54956.87 requirements when it comes to wording of closed session agenda items and actions at board meetings. Details are found in the Discussion section of this report.

Insufficient adherence to government code potentially exposes JCF to liability. Furthermore, the public is not being properly informed of the operations and decisions within this special district.

At the end of its investigative process, the MCCGJ concluded the errors were not done maliciously or with intent to harm. Nevertheless, these errors must be addressed by the JCF board. The MCCGJ believes the first steps towards reaching compliance is to have all board members and appropriate administrative staff trained on the relevant codes and to develop a specific schedule for training and retraining. Acting in compliance with government code will lead to increased public knowledge about, collaboration with, and trust in, JCF.

This report includes a number of recommendations detailing ways JCF should cure itself from making future similar errors.

GLOSSARY

ACHD	Association of California Health Care Districts
Brown Act	Ralph M. Brown Act
CEO	Chief Executive Officer
COB	Clerk of the Board
GC	California Government Code
HSC	California Health and Safety Code
JCF	John C. Fremont Healthcare District
MCCGJ	Mariposa County Civil Grand Jury

BACKGROUND

Established in 1947 by a vote of citizens in Mariposa County, JCF is a special district, meaning it is an agency of the state “for the local performance of governmental or proprietary functions within limited boundaries” (GC §16271(d)). JCF has been serving Mariposa County, parts of Madera County (Ahwahnee, Nippinawassie, & Oakhurst), Yosemite National Park, Fish Camp, Coulterville, Greeley Hill, and Lake Don Pedro with healthcare services since 1951.

As a special district, JCF is a form of government and is governed by a board of directors. It is accountable to both the voters who elect its board of directors and customers who use its services.

JCF must follow state laws as they pertain to local governments, including key transparency laws like the Ralph M. Brown Act (GC §54950). As a hospital, it must follow California Health and Safety Code as specified in HSC §3200-32499.4. JCF must also follow California Government Code 54956.87 which covers governing boards of health plans. These laws guarantee the public's right to attend and participate in meetings with only very specific exceptions.

Since the issues of the complaint received by the MCCGJ fell within its purview, the jury decided to investigate.

METHODOLOGY

The MCCGJ used a number of techniques to investigate the merits of the claim, including:

- Studying relevant sections of the Brown Act, Health and Safety Code, California Government Code §54956.87, and the Brown Act Pamphlet published by the California Attorney General's Office
- Consulting with legal counsel
- Interviewing JCF board members and staff
- Reading JCF's Bylaws

DISCUSSION

Based on its investigation, the MCCGJ found a number of instances in which the JCF board did not comply with Brown Act, Health and Safety Code §3200-32499.4, or Government Code §54956.87 requirements when it comes to wording of closed session agenda items and actions at board meetings.

Inadequate Wording and Missing Code References in Closed Session Agenda Items

Both the Brown Act Pamphlet published by California Attorney General's office and the MCCGJ's legal counsel recommend public agencies follow GC §54954.5's "fill-in-the-blank" approach to wording closed session agenda items. The GC template provides JCF with safe harbor from liability and also ensures the public is properly informed, avoiding confusion and the agency's exposure to liability. According to the MCCGJ's legal counsel, this methodology also should be followed in regards to Health and Safety Code for the same reasons.

The MCCGJ examined a sampling of JCF's agendas and minutes and found these inadequacies:

1. On its November 17 and December 15, 2021 agendas, JCF includes a closed session agenda item written as follows:

"Trade Secrets - 4 (Government Code 54956.87)."

The wording does not provide sufficient information regarding the topic, discussion, or follow up. It should be written:

"Report Involving Trade Secrets (Gov. Code section 54956.87)." The item should further indicate "Discussion will concern: [specify whether new service, program, or facility].

Estimated date of public disclosure: [Specify month and year]"

This wording improves transparency. California Government Code §54956.87 requires that at the start of open session, the board should give a brief general description of any action taken, withholding the information that constitutes the trade secret.

2. On the December 15 JCF agenda, the closed session item is written:

"Quality Management monthly report. (Health and Safety Code 32155), Kristen Fournier, RN."

However, Health and Safety Code §32155 states:

Board of directors may order the *hearing* [our emphasis] pursuant to this article, and hearings on the reports of the hospital medical audit or quality assurance committees, be held in private or executive session, provided, that an applicant or medical staff member whose staff privileges are a direct subject of a hearing may request a public hearing. Deliberations of the board of directors in connection with matters pertaining to this article may be held in executive session. (HSC §32155)

Therefore, the proper wording of this item is:

"Hearing: Quality Management, Kristen Fournier, RN, Director of Quality (Health and Safety Code section 32155)"

Likewise, the next item on this agenda is written as:

"Medical Staff report to the board by attending providers" [note: code reference is missing]

Instead, it should be written as:

"Hearing: Medical Staff (Health and Safety Code section 32155)"

According to MCCGJ legal counsel, a hearing is a general discussion of an item. The board should list these items as hearings and then summarize what they can of the reports in public session.

3. Similarly, but with an additional error, on the November 17, 2021 agenda, a closed session item is written:

"On recommendation from the Medical Executive Committee, the following were granted appointment privileges:..."

This makes it seem that the item has already been decided. This should not be the case as this is for the board to decide. Instead, the item should be written:

"Hearing: Medical Staff Privileges (HSC section 32150)."

This wording indicates the privileges are being considered by the board. After the closed session, a JCF board member should then report that the privileges were or were not granted.

While the MCCGJ found additional closed session agenda items written inadequately to ensure transparency to the public and avoid confusion, the examples noted here provide enough evidence that the JCF board and administration needs to more closely study and implement the Brown Act, California Health and Safety Code §3200-32499.4, and California Government Code §54956.87 when it comes to developing closed session agendas.

Improper Wording and Action Regarding Potential Litigation

In addition to improper wording, the MCCGJ found multiple instances where the JCF board both listed litigation improperly on agendas and also did not follow government code in closed session.

Per the Brown Act Pamphlet published by the California Attorney General's Office:

Pursuant to section 54956.9, a closed session may be conducted in order to permit an agency to receive advice from its legal counsel. When the impetus for such a closed session is the agency's exposure to potential litigation, the Act carefully regulates the circumstances under which a closed session may be called, and the types of announcement which must accompany such a meeting. (§54946.9(b)(3))

An example of an instance where this guidance was not followed is on the November 17, 2021 agenda. It is inadequate to state:

"Significant exposure to anticipated litigation - 3 potential cases (Government Code 54956.9 (b))"

Instead, the closed session agenda item should specify:

"Conference with Legal Counsel - Anticipated Litigation. Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision 54956.9 [specify number of potential cases]"

Additionally, the MCCGJ interviewed multiple people present at JCF closed sessions where potential litigation was an item of discussion. They indicated that legal counsel was not present during these discussions. One indicated this has been the case for a few years. Another

interviewee noted that legal counsel is always consulted before meetings. Through its investigation, however, the MCCGJ found that consulting with legal counsel prior to meetings is not sufficient.

According to the Brown Act and confirmed by MCCGJ legal counsel, for all closed session agenda items related to anticipated litigation, JCF's legal counsel must be present, otherwise, the JCF board should not be having closed session discussions about these items.

Potential Lack of Necessary Disclosure Regarding Litigation

Multiple interviewees indicated that JCF has settled litigation in the past five years. There was discrepancy, however, in answering whether or not the JCF board had made the necessary report of the action to the public during open session. Therefore, the MCCGJ reminds JCF of the following:

In the case of a contract or settlement of a lawsuit, copies of the document also must be disclosed as soon as possible (§ 54957.1(b) and (c)). If final action is contingent upon another party, the legislative body is under no obligation to release a report about the closed session. Once the other party has acted, making the decision final, the legislative body is under an obligation to respond to inquiries for information by providing a report of the action ((§ 54957.1(a)). (Brown Act Pamphlet, page 24)

The guidance provided in the Brown Act Pamphlet published by the Secretary of State's office continues to say:

With respect to litigation, approval given to the body's legal counsel to defend, to seek or refrain from seeking appellate review, or to appear as amicus curiae in any case resulting from a closed session meeting held pursuant to section 54956.9 shall be reported in open session ((§ 54957.1(a)(2)). The report shall identify the adverse parties and the substance of the litigation. Where the body had decided to initiate litigation or intervene in an existing case, the report shall indicate that fact but need not identify the action, the parties, or the particulars. The report shall specify that once the litigation or intervention has been formally commenced, the body must, upon inquiry, disclose such information, unless to do so would jeopardize service of process or existing negotiations. ((§ 54957.1(a)(2)) (Brown Act Pamphlet, page 24)

This source includes additional Brown Act information regarding litigation and potential litigation that may be relevant to JCF. The MCCGJ suggests the JCF board and administration review this document in its entirety and receive training on this as well as all other aspects of the Brown Act.

In addition, MCCGJ legal counsel noted that board agendas usually specify litigation or potential litigation; it is rare for wording that specifies what litigation or potential litigation is about to put the board at a disadvantage. The MCCGJ notes that including as much information as possible about litigation or potential litigation is necessary to ensure the public's right to know per the Brown Act.

Improper Discussion in Closed Session of an Open Session Item

The November 17, 2021 agenda includes the following item in open session under Discussion/Action:

A. Request for Registered Nurse Union Recognition, [...], presenter

The minutes for this meeting note that the Board Chair thanked the presenters for their time and for sharing and announced that the Board would take no action on this item. There is no indication of a discussion by the board before the Chair made this announcement. The MCCGJ's interviews indicate that the minutes are accurate; this exchange happened just as reported. One interviewee who was present during closed session noted that a discussion occurred during closed session.

It's clear from the Chair's announcement without discussion as well as from interview accounts that there was improper board discussion of the item during closed session. There is no indication that this item meets criteria for a closed session discussion. It should have been discussed in open session.

Responsibility for Agenda and Minute Wording

The JCF Bylaws state, "Administration is responsible for doing a professional job of preparing the agendas and minutes as directed by the board."

MCCGJ interviews indicate that the Administrative Assistant to the Chief Executive Officer (CEO) who also acts as the Clerk of the Board (COB) has been given the responsibility of drafting the agendas and the board minutes. However, according to the COB, the COB has never had Brown Act or Health and Safety Code training.

Since early 2022, the Board Chair, Board Secretary/Treasurer, and Chief Operating Officer have begun to meet with the COB to discuss the agenda prior to meetings. MCCGJ interviews indicate this has not led to any changes in how the agenda is put together or in the wording of agenda items.

The MCCGJ points out that as elected officials of the people of Mariposa County, it is ultimately the board's responsibility to ensure that staff receive the training it needs to carry out the functions assigned to them. The MCCGJ also notes that the board is ultimately responsible for drafting agendas with adequate detail and references.

Government Code Training

MCCGJ interviews indicated that board members and the CEO have the opportunity to receive Brown Act training through the Association of California Health Care Districts (ACHD). Some have done so if they wanted to and had the time; it is not required. Some interviewees specified that though they are not necessarily trained on the Brown Act, board members do recommit to it annually.

The current MCCGJ notes that the 2015-2016 MCCGJ Final Report included findings regarding JCF violations to the Brown Act. Because this has come up in the recent past, the current MCCGJ recognizes this as a recurring problem.

The MCCGJ recommends a first step is to have all board members and appropriate administrative staff trained not only on the Brown Act and to repeat the training on a specified regular schedule.

Conclusion

The MCCGJ has found multiple instances of the JCF board not adhering to Brown Act, Health and Safety Code §3200-32499.4, and GC §54956.87 requirements when it comes to wording of closed session agenda items and actions at board meetings. This potentially exposes JCF to liability. The public is not being properly informed regarding operations and decisions made by this special district. At the end of the interviewing process, the MCCGJ concluded the errors were not done maliciously or with intent to harm. Nevertheless, these violations need to be addressed. The MCCGJ believes doing so would be relatively easy and will lead to increased public knowledge about and trust in JCF.

FINDINGS

- F1. The JCF board does not always comply with the Brown Act, California Health and Safety Code §3200-32499.4, and California Government Code §54956.87 regarding the wording of closed session agenda items and actions at board meetings.
- F2. The JCF Board does not have a lawyer present during closed session litigation or potential litigation discussions.
- F3. Regarding a November 2021 agenda item about the request for registered nurse union recognition, there was improper board discussion of this item during closed session.
- F4. The JCF bylaws state that the agenda and minutes are the responsibility of Administration and yet neither the CEO nor the COB have had Brown Act, Health and Safety Code §3200-32499.4, and GC §54956.87 training.
- F5. The JCF board members are not required to attend Brown Act training. While some have received this training, none retrain on a regular basis.

RECOMMENDATIONS

- R1. The JCF board must follow Brown Act, Health and Safety Code §3200-32499.4, and GC §54956.87 requirements. One way to ensure this would be to use the GC templates.
- R2. JCF's legal counsel must be present for all closed session items regarding litigation.

Mariposa County Unified School District Board Member Conflict of Interest

SUMMARY

The Mariposa County Civil Grand Jury (MCCGJ) received a complaint regarding alleged conflict of interest among the Mariposa County Unified School District (MCUSD) Board. The complainant noted that a school board member made a motion and voted on the subject even though he had a relative who was directly impacted by the issue and its resolution. The complainant states that the motion and vote appeared to benefit the board member's relative. The motion involved covid testing for all teachers regardless of vaccination status. The relative of the board member was not vaccinated and did not want to be treated differently than vaccinated teachers through mandatory covid testing.

The MCCGJ found that there was no financial gain for either the board member or the relative. However, there was an appearance that the motion would benefit a relative.

Upon reviewing the complaint, the MCCGJ found that the Board Bylaws code 9270 states that "Even if a prohibited conflict of interest does not exist, a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which his/her relative belongs."

The Grand Jury outlines the issue in the following report and makes recommendations.

GLOSSARY

MCOE	Mariposa County Office of Education
MCUSD	Mariposa County Unified School District
MCCGJ	Mariposa County Civil Grand Jury

BACKGROUND

The complainant states a member of the MCUSD School Board not only discussed and voted on an item in which he had an appearance of a conflict of interest, but he initiated the motion on the item. The subject of the agenda item was about mandatory covid testing for unvaccinated teachers.

The Governor of California's mandate requires staff who have not received the Covid -19 vaccine to complete weekly testing. Given recent public comment, the MCUSD School Board was considering expanding testing to all staff. All school employees had previously been surveyed about whether all staff should be tested weekly regardless of vaccination status. The results of the survey revealed that 17% of employees supported testing all employees regardless of vaccination status and 40% were against this proposal.

On December 8, 2021, comments were made at a special school board meeting stating unvaccinated staff were being discriminated against since they had to be tested for covid weekly and vaccinated teachers did not. One of the speakers who advocated for covid testing for all teachers regardless of vaccination status was related to a member of the school board.

The next day, December 9, 2021, at the regularly scheduled school board meeting, a board member who is related to a teacher made a motion that all staff regardless of vaccination status be tested weekly. The motion failed. The complainant, however, was concerned that the board member appeared to have a conflict of interest on this subject and should have recused himself from voting, let alone bringing a motion forward to vote. The complainant was also concerned that the Board Chairperson and other Board members did not speak up to raise the issue of the potential conflict of interest.

METHODOLOGY

The MCCGJ used a number of techniques to investigate the merits of the claim, including:

- Reviewed federal conflict of interest rules found at 18 U.S.C. :208 at 5 C.F. R. :2635.402
- Reviewed California State and MCUSD Policy Section 9000 Board Bylaws, code 9270 BB title Conflict of Interest
- Interviewed 2021 MCUSD Board Chair
- Interviewed MCUSD Board member who made motion to vote on employee testing
- Communicated with MCUSD Superintendent regarding school policies
- Communicated with California School Board Association
- Reviewed MCUSD/MCOE Board Meeting Minutes of 12/9/2021 and MCUSD/MCOE Special Board Meeting of 12/8/2021.

DISCUSSION

The MCCGJ found during their investigation that although there was no financial gain for the board member or his relative, there was an appearance that there was a conflict of interest. The grand jury found the MCUSD policies on conflict of interest in section 9000 of the Board Bylaws, code 9270 BB which states:

The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. Accordingly, no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.

Even if a prohibited conflict of interest does not exist, a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which his/her relative belongs. Relative means an adult who is related to the Board member by blood or affinity within the third degree, as determined by the common law. A relationship within the third degree includes an individual's

parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse/registered domestic partner unless the individual is widowed or divorced. an individual in an adoptive relationship within the third degree. (Education Code 35107)

The Board Policies also mention the Political Reform Act which states:

A public official has a disqualifying conflict of interest in a governmental decision if it is foreseeable that the decision will have a financial impact on his or her personal finances or other financial interests. In such cases, there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests. To avoid actual bias or the appearance of possible improprieties, the public official is prohibited from participating in the decision." with disqualifying financial interests being "The official's personal finances including his or her expensed income, assets, or liabilities, as well as those of his or her immediate family.

The MCCGJ did not find that any financial gain would be incurred by the board member or his family as a result of the proposed motion. However, it is the appearance of the board member's personal interest in raising this motion and voting on it that violates the policy as interpreted by the MCCGJ. The appearance of a conflict of interest erodes the public trust in our institutions.

FINDINGS

- F1. A School Board Member made a motion and voted on it when the subject involved a relative.
- F2. School Superintendent and School Board Members must avoid the appearance of a conflict of interest in order to maintain public trust.

RECOMMENDATIONS

- R1. School Board Members should recuse themselves from making motions or voting on matters that involve a conflict of interest or give the appearance of a conflict of interest.
- R2. The language in the bylaws should be written to more clearly define conflict of interest, and the process to determine if a conflict of interest exists.

REQUEST FOR RESPONSES

Responses are required pursuant to Penal Code sections 933 and 933.05 within 90 days of the publishing of this report from the following governing body:

- MCUSD Board F1, F2, R1, R2

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refusal, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

This report was issued by the Grand Jury with the exception of a juror who has close association with the school district. This grand juror was excluded from all parts of the investigation, including interviews, deliberations, and the writing and approval of this report.

Road Maintenance Agreements: Standards and Provisions for Long-Term Maintenance

SUMMARY

The MCCGJ received a complaint regarding the County changing a zone of benefit (ZOB) to a private road maintenance agreement (RMA) in 1993. In a ZOB mechanism, the County collects fees and provides regular road maintenance activities. In an RMA, the property owner(s) are responsible for all road maintenance activities (e.g., fee collection and maintenance contracting) with little involvement from the County once the RMA document is recorded by the Clerk of the Board.

The complainant stated that an application for a major subdivision was approved with a ZOB in 1990. The process for establishing a ZOB included conditions recommended by the Planning Department and approved by the Planning Commission, with final approval from the Board of Supervisors (BOS). However, in 1993, the major subdivision applicant requested that the ZOB be dissolved which then would require an RMA. The BOS approved this through an act by resolution, resulting in an RMA. The complainant stated that the BOS replaced the ZOB with an RMA that has since financially burdened and endangered the parcel owners directly impacted by the subdivision road conditions. For example, flooding in recent years and culvert drainage problems due to road erosion have resulted in significant cost to only those parcel owners adjacent to the damaged part of the road. Various iterations of the RMA have led to the current poor condition of the road as well as jurisdictional concerns regarding responsibility for road maintenance and upkeep of road surfaces.

Given this complaint, the MCCGJ investigated the County's existing ZOBs and RMAs, subdivision applications, and relevant BOS resolutions. Through this investigation, the MCCGJ identified a number of issues with the Board of Supervisors' process of rescinding the subject ZOB, and establishing RMAs with insufficient conditions for appropriate long-term road maintenance.

GLOSSARY

BOS	Mariposa County Board of Supervisors
MCCGJ	Mariposa County Civil Grand Jury
RICP	Mariposa County Road Improvement and Circulation Policy
MCIS	Mariposa County Improvement Standards
RMA	Private Road Maintenance Agreement
ZOB	Zone of Benefit

BACKGROUND

A zone of benefit (ZOB) is prepared following guidelines set by the State Board of Equalization. Each ZOB is formed based on an Engineer's Report prepared by a California Registered Professional Engineer. The report defines the location of the ZOB, sets the assessment rate and

the method of assessment. The ZOB road is maintained to the conditions recommended by the Planning Department and approved by the Planning Commission. A private road maintenance agreement (RMA), on the other hand, outlines maintenance responsibilities and requirements for a private road and puts the onus of repairs on the “association” not the County. California Civil Code requires the cost of maintenance for the private road to be shared equitably by the landowners benefiting from the road. Currently, Mariposa County exercises no monitoring, review, or implementation authority over RMAs nor does Mariposa County track private actions taken through the court system to implement an RMA. Upon request by a development applicant (subdivision, land division, etc), the County routinely provides an acceptable RMA template which has been reviewed and approved by County Counsel.

The BOS is the authorizing agent for a ZOB. A ZOB document is attached to the land title of the affected parcels and disclosed as a part of escrow. Funds for a ZOB are collected by the Tax Collector through the property tax process and the County is responsible for the maintenance of the road. An RMA is a declaration referenced on the parcel map for roads to be privately maintained. Upon finalization, the RMA declaration is a portion of the parcel title and should be disclosed with escrow.

State Law and County Code require approval of parcel maps by the BOS. The Mariposa County Road Improvement and Circulation Policy (RICP) spells out the criteria for acceptance or rejection of roads based on their usage. During the time of the original major subdivision application, referenced in the complaint, a ZOB was required on all new roads constructed as a condition of approval of a land division. The subdivision applicant filed a resolution of intention to form a ZOB in 1990 to maintain the existing and future roads within the major subdivision.

There are currently twenty (20) ZOB dedications in Mariposa County where the County assumes maintenance responsibilities of roadways in private developments. Seventeen of these ZOB documents were established before 1994, indicating that the majority of roads in private developments after 1994 have limited or no County responsibility for maintenance and the immediate correction of emergency and hazard situations. The County establishes the fees required to maintain the roads in a ZOB through assessed property tax. In an RMA, the landowners determine and manage all maintenance fees. The MCCGJ was not able to determine the number of RMAs currently filed with the court.

Mariposa County Maintained versus Unmaintained Roads

County road maintenance is funded by a state formula based on vehicles registered within the County and dedicated road miles. Dedicated roads are those that are accepted to be maintained by the County. An interviewee noted that Mariposa County has not accepted additional dedicated roads since the 1970s. The County receives a percentage of the statewide gas tax based on the number of registered vehicles in the County. While the number of registered vehicles has increased, the miles of County-maintained roads has remained constant. For any segment of roadway that is accepted by the County as a dedicated roadway, there is a proportional segment that is removed as a dedicated roadway from the system. The MCCGJ researched the topic and found that a rural area’s percentage of unmaintained county roads is high and is expected to increase. Mariposa County is not expected to increase the miles of maintained roads, thus anticipates a continued increase in privately maintained roads.

County Road Maintenance Standards and Policies

The [Mariposa County Road Improvement and Circulation Policy](#) (RICP) was originally developed in 1988 with amendments through 2007. This policy establishes the minimum standards necessary for any developer to provide the County with adequately designed and constructed roadways important for the health and safety of the public. This document specifically notes that public funds for road maintenance and construction are scarce and, as such, new private development shall be responsible for installation of all improvements required by these policies.

The [Mariposa County Improvement Standards](#) (MCIS) resolution was adopted August 1988 and updated October 1999. This document addresses a spectrum of standards for planning, construction, and modifications for County infrastructure including utilities and roadways. The MCIS includes design standards and County approval processes. Road standards in this document govern the construction of County roads and any road to be offered to the County for dedication. These standards may also be applied to other roads as required by the Planning Commission and the Board of Supervisors.

Conclusion

The complainant claims the Mariposa County BOS incorrectly rescinded the ZOB originally set as a condition for a major subdivision applicant, replacing it with an RMA. The ZOB had ensured the County would maintain the roads for the life of the subdivision. When the BOS 1993 resolution approved the replacement of the ZOB with an RMA, the responsibility for road maintenance moved from the County to the collective body of the subdivision homeowners. Additionally, in the resolutions signifying this change, the County did not give itself any oversight authority in making sure the subdivision applicant met the conditions of the recorded 1993 RMA document. Conditions include setting up an RMA committee, collecting fees from residents for road maintenance, issuing liens for those who do not pay fees, and contracting for road maintenance and repair. The subdivision applicant did not meet the conditions of the RMA.

METHODOLOGY

The MCCGJ investigation and research included:

- Interviews with
 - County Counsel/Risk Management
 - Interim Director of Public Works
 - County Surveyor of Public Works
- Email correspondence with
 - Public Works Director
 - Planning Department Director
 - Mariposa County Legal Counsel
 - Complainant
- Mariposa County resolution and ordinance documents dating from 1989 to 2004

- Mariposa County ZOB/RMA documents dating from 1993 to 2004 received from complaint and document research
- Review of State and County documents referenced in interviews and/or email communication:
 - Mariposa County Road Improvement and Circulation Policy – adopted August 9, 1988 and updated last September 11, 2007
 - Mariposa County Improvement Standards October 1999
 - Civil Code Section 845 – enforcement by county action
 - Mariposa County Subdivision Ordinance (Title 16)
 - California Public Road Data 2013
 - Mariposa County subdivision maps, certificates offer and accept public easement for access and utilities provide by County Surveyor of Public Works
 - Mariposa County Zones of Benefit Master List
 - Mariposa County Service Area No.1 To be placed on Tax Roll Fiscal Year 2021-22
 - Road Maintenance Association Template
 - Map Recordation and ZOB Policy 94-06
 - Zone of Benefit Work Order Policy 91-9
 - Mariposa County: Unmaintained County Roads in High Hazard Zones 2018
 - CalTrans Public Road Data 2013
 - CalTrans Public Road Data 2018

DISCUSSION

The MCCGJ investigated County processes related to dissolving zones of benefit (ZOB) and establishing private road maintenance agreements (RMA). In regards to the complaint received, the MCCGJ identified a number of issues with the Board of Supervisors’ effort to establish the various iterations of the RMA that have led to the current poor condition of the road as well as jurisdictional concerns.

Replacing a Zone of Benefit with a Private Road Maintenance Agreement

The Mariposa County Civil Grand Jury (MCCGJ) found several act by resolutions dated 1989-1991 approving final parcel maps and ZOB formation of the major subdivision named in the complaint. The ZOB included conditions which ensured the major subdivision applicant followed existing regulations and permitting requirements. In an interview with the County Counsel, it was stated that the Mariposa County Road Improvement and Circulation Policy (RICP) requires that “road(s) be maintained for the life of the project,” ensuring roads would be maintained by the County for the duration of the subdivision.

However, the BOS later enacted a series of resolutions in 1993 to dissolve the ZOB. The BOS approved through an act by resolution the dissolution of the ZOB, replacing it with an RMA. The problem with this is that an RMA leaves room for error in meeting the regulation and permitting requirements. The RMA template provided to applicants by the County includes no provisions that the agreement be enacted by the subdivision applicant nor does it include mechanisms for the County to track conformance. The grand jury suggests the County RMA template be updated

to alleviate the problems as further explained in the following paragraphs. The grand jury also recommends that the RICP be updated to provide guidelines and standards referenced in the RMA template.

Development Proposal Review: Mariposa County has given itself no monitoring or review or implementation authority for activities covered by an RMA. Therefore, it is essential that appropriate standard conditions are included in the RMA template and its review/approval process that addresses interdisciplinary considerations for long-term maintenance. Per Mariposa County policy for developments in Mariposa County, provisions of the agreement or instrument should be reviewed and approved by the County Engineer and a copy provided to Mariposa Planning Commission prior to issuance of a building or grading permit for the project. The MCCGJ recommends that an amendment procedure be established that requires similar interdisciplinary review by the County when a project and associated RMA is amended.

RMA Committee: Implementation of an RMA is the responsibility of the affected landowners. This includes collection of funds and completion of maintenance activities. The applicant was responsible for filing an RMA as a court document and the document requires an RMA committee be established. The first RMA was filed but the subdivision applicant did not organize and activate an RMA committee. Therefore, funds were not collected from the parcel owners, liens were not placed on those who did not pay fees, and the roads were not maintained. The MCCGJ recommends that the County RMA template includes roles and responsibilities for implementing the terms of the agreement.

Road Maintenance Funds: All funds collected within the prior ZOB agreement were refunded to the applicant. The act by resolution should have specified that the ZOB refund be transferred to benefit future road maintenance. There was no RMA committee organized to receive these funds or apply them appropriately to road maintenance. The MCCGJ recommends that the County RMA template include specifications for collection and allocation of funds for road maintenance.

Lien Authority: The BOS approved an act by resolution in 1998 which established the second RMA, reinstating and amending the first RMA. It removed the authority of placing a lien on property owners who were delinquent on their parcel owner obligations. Without liens, there was no authority established in the resolution to ensure compliance. There is no provision that parcel owners who were delinquent in their assessed fees between 1993 and 1998 could be retroactively charged or have liens placed on their properties. The MCCGJ recommends that the County RMA template include standard lien authorities to ensure compliance.

Duration of the Maintenance Agreement: In an interview with the County Counsel, it was stated that the Mariposa County Road Improvement and Circulation Policy (RICP) requires that “road(s) be maintained for the life of the project,” ensuring roads would be maintained by the County for the duration of the subdivision. When the County dissolved the major subdivision ZOB through an act by resolution, the County removed its responsibility to maintain the road for the life of the project. The “life of the project” is interpreted by the MCCGJ as the duration of the existence of the major subdivision. Instead, the RMA placed a date of January 1, 2024 as a sunset provision. This sunset date is inadequate for appropriate long-term road maintenance. The

MCCGJ recommends that the RICP be updated to clearly define standard terms for road maintenance duration, and apply these provisions as a standard in the County RMA template.

Public and Emergency Access: As demonstrated by the road in this complaint, unmaintained roads in the County are used not only by the residents but as public and emergency access roads. The roads are often in poor condition as evident through culvert damage and erosion. Erosion is exacerbated by frequent use. Current technology, specifically GPS navigation systems, often direct drivers to take unmaintained roads as alternate routes to unfamiliar destinations. This has increased public use of unmaintained roads. The roads were not designed nor are they maintained to be traveled with frequency by the public. Furthermore, the roads are primary emergency ingress and egress for residents and public users. Emergency travel is impeded when road conditions are poor. The MCCGJ recommends that the RMA template include provisions for a County monitoring system to ensure that safety standards are met.

Regular Review and Updates to County Regulations and Policies

While investigating, the MCCGJ found that some of the Mariposa County regulations and policies referenced in this report have no indication of being updated in 10 to 20 years.

The Mariposa County Improvement Standards (MCIS): The MCIS is dated October 1999 and no apparent changes have been made since. The MCCGJ recommends that the standards are updated on a regular basis.

Mariposa County Road Improvement and Circulation Policy and Improvement Standards (RICP): The RICP addresses surface design, geometric design, drainage concerns, lighting, and wildlife-vehicle safety. The BOS last amended the RICP on September 11, 2007. The MCCGJ suggests this document should be updated to take into consideration current road standards and codes, the changing needs of the community, as well as impacts common in our geographic area. Since it was published in 1988, the grand jury found five BOS amendments, however, changes are not annotated or readily discernible.

The MCCGJ recommends that Mariposa County documents stating regulation and policies should be reviewed on a regular basis to ensure they meet code changes and the changing needs of the County.

FINDINGS

- F1. A major subdivision ZOB was dissolved by a BOS resolution and the RMA(s) which replaced it did not include conditions for County oversight of effective road management.
- F2. There is no mechanism by which the BOS can make certain that a successful RMA applicant establishes a committee to ensure the conditions of the agreement were met.
- F3. There is no mechanism by which the BOS can make certain that a successful RMA applicant requires a committee to collect and manage funds for routine road maintenance and emergency repairs.
- F4. There is no mechanism by which the BOS can make certain that the successful RMA applicant applies enforcement tools (e.g., liens) to ensure delinquent fees and assessments are collected.

INVITED RESPONSES

The Directors of the Mariposa County Planning Department and Mariposa County Public Works are invited to respond within 60 days. F1, F2, F3, F4, F5, F6, F7, F8, R1, R2, R3, R4, R5, R6

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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