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August 16, 2017

Katharine Wylie, Foreman  
Mendocino County Grand Jury (2016-2017)  
P. O. Box 939  
Ukiah, CA 95482

Re: MCRPD Response to Grand Jury Report

Dear Ms. Wylie and Grand Jurors:

The District appreciates this opportunity to respond to the recently released Grand Jury report. The District recognizes the important role of the Grand Jury in overseeing the operations of local government agencies. Unfortunately, the report which this Grand Jury has produced regarding the Mendocino Coast Recreation and Park District is riddled with factual errors and marred by needlessly inflammatory language. This response will hopefully correct the record.

The errors begin in the very first line of the report as this District is the Mendocino Coast Recreation and Park (singular) District. We do not know who chose the subtitle "Their Field of Dreams", but it seems needlessly sarcastic and unfairly characterizes as a mere "dream" what could have been a fantastic opportunity to construct a golf course for the Mendocino Coast (prior to the financial meltdown in 2008-09).

The District strongly disagrees with the Grand Jury's contention that it is "financially irresponsible". The Board consists of volunteer elected officials using their best judgment to allocate limited funds among numerous programs serving the coastal community. Nor is the District "habitually delinquent" on its financial obligations. The primary significant unpaid obligation is the obligation to Westamerica Bank. The District sought Chapter 9 bankruptcy protection in order to renegotiate that obligation. Other than that and one private loan (both relating to the proposed golf course project), the District is current on all of its financial obligations. Nor was the District "over seven months late" in completing its last year's audit. Audits are not completed on the last day of the fiscal year; they are completed after all of the final reports are in and the CPA has completed the audit. Under generally accepted accounting principles six months or more following the end of the fiscal year is about average for obtaining an audited financial report (which involves information gathering, interviews, preparation of a draft report, staff review and adoption of the final audit). The Grand Jury's contention that the timing of the District's adoption of its final 2015-16 audit is "late" raises serious questions about the financial competency of the Grand Jury.

The MCRPD has no doubt about its ability to continue as a viable entity notwithstanding the Grand Jury's attempt to paint it as an irresponsible spendthrift.

There is no basis for the Grand Jury's assertion that the CV Starr Center was "initially planned with

insufficient funding". The statement that the City of Fort Bragg provided "bailout funding to enable operations" is simply false. The City of Fort Bragg began operating the CV Starr Center in June 2012. The City invested \$311,000 to provide the CV Starr Center (which it then owned) with the necessary operating capital. The report implies that the District later purchased the Highway 20 property (which was intended for an 18 hole golf course among other amenities) after the City "bailout". This is also completely false; the 586 acres were purchased in 2006. That project did not simply "fail to materialize"; the District assiduously pursued the project including the preparation of an environmental impact report and the filing of a Notice of Determination. Unfortunately, the global financial meltdown which occurred in 2008-09 (and affected millions of persons and entities including this District) resulted in a virtual halt to many coastal development activities including the anticipated development of this golf course. Since that time the District has made numerous efforts to find a buyer for the property, and in more recent years has partnered with the California Recreation Alliance to protect the property and possibly develop the property for off road vehicle use among other uses. Towards that end, the District was recently the successful recipient of two grants (a planning grant and a restoration grant) with a total value of \$4,200,000 (which were nearly lost due to the inflammatory language of the recent Grand Jury report).

There is nothing financially irresponsible about the request for Teeter funds, nor is there any requirement that the District divide funds evenly between "four coastal school district boundaries". The report implies that only Fort Bragg residents use Fort Bragg facilities when in fact persons from along the entire Mendocino coast use the CV Starr Center and other MCRPD programs centered in Fort Bragg (which is the population center on the northern Mendocino coast). Just as the road department distributes funds where it sees projects are needed (rather than providing a proportional share of an individual's tax dollars by paving the road only in front of their house), the District distributes funds to numerous programs within the District's boundaries which it determines will best meet the recreational needs of the Mendocino coastal community.

It is unclear what the Grand Jury means by stating that monies are "comingled in the MCRPD budget", nor did the District withhold any financial and operating records. These statements appear to be nothing more than sinister sounding innuendo intended to damage the reputation of the District. District budgets are freely available to members of the public including the Grand Jury.

It is also false to imply that the Grand Jury "had to issue a civil subpoena" in order to obtain District records. As the Grand Jury was promptly informed, the request for records came during the budget preparation time for the District (which has two executive employees) and additional time was needed to track down records many of which were over ten years old and not easily accessible. All requested records were ultimately provided, and would have been provided with or without a subpoena. In addition, the District has to question the use of newspaper articles as a source of information concerning governmental operations when original documents were available to the Grand Jury.

#### History of the Mendocino Coast Recreation District

The District does not employ a "bookkeeper"; it employs a business manager. To imply that there has been a "series" of business managers or administrators is false and misleading. Michelle Gordon served as the business manager for more than thirteen years, there was an interim business manager and Jill Rexrode is the current manager. There have been two administrators during the last four years. Nothing regarding District personnel has hampered the ability to provide "financial transparency". The phrasing of this report is indicative of bias and appears to be intentionally misleading to the reader.

As already noted, MCRPD annual audits are completed in a timely manner, and the Grand Jury's assertions to the contrary evidences a lack of understanding of how government agency audits are conducted. Nothing prevents full public financial disclosure of District operations.

MCRPD does not own the property on which the Mendocino Coast Humane Society is located, and has no idea why that statement is made in the Grand Jury report.

The MCRPD Board is not primarily composed of Fort Bragg area residents. Bill Hayes (Chairman of the MCRPD Board) resides in Mendocino. John Huff (Secretary of the MCRPD Board) resides in Cleone. Former Board member Diane Wiedeman resides in Albion. Former Board member Maryellen Sheppard resides in Westport. The Grand Jury claim that tax payers residing in outlying districts, are not currently represented on the Board is false.

The District found the Grand Jury discussion of the breakdown of tax dollars received by the District to be very interesting because the District has been requesting such information from the County auditor for many years without success. The District requests that the Grand Jury provide to the District all information it has obtained concerning this issue. The Grand Jury's discussion of "funding distribution" does not account for payments made by participants in any of the programs. It only references funds granted to programs offered by organizations other than MCRPD, and has no relationship to the participation of coastal residents in MCRPD leagues, clinics, camps and programs. Like much of the report it is biased and misleading. There is no reason why it should be "unclear" to the Grand Jury how the District spends its funds; this information is set forth in the annual MCRPD budgets. CV Starr Center expenses including staff and maintenance expenses are not paid out of the MCRPD budget, nor is there any "indebtedness" caused by the building of the CV Starr Center, and no basis for the Grand Jury alleged "serious concern".

### Highway 20 Property

The Highway 20 property was not sold to the Friends of MCRPD "for an undisclosed amount". The property was sold to the Friends for \$850,000. The District later refinanced the acquisition cost as well as the cost of the design documents, environmental reports and property improvements for \$2,221,000 which as noted in the Grand Jury report was the amount of the loan from Savings Bank of Mendocino County to MCRPD.

The Grand Jury report makes the assertion that a "questionable payment" was made to the project manager, without elaboration. If there was in fact a questionable payment made with public funds to anyone that should be discussed in detail. Otherwise this is nothing more than innuendo (intended to imply wrongdoing) when in fact no such wrongdoing exists.

It is interesting that the Grand Jury can describe in such detail the various attempts by the District to make good on its contractual obligations without giving the slightest mention to the global financial meltdown which was the primary cause of the District's inability to find a developer for the proposed golf course. But for the collapse of the financial markets at that time, this project could have been a wonderful success for the coast. There is no question that the subsequent default on the contract has been a source of great difficulty for the District. It is also true that the current Board of Directors has worked effectively to mitigate the harm to the District and attempt to resolve this situation with the bank. We question the Grand Jury's assertion that in July 2007 the Savings Bank expressed concern about MCRPD's ability to repay its loan (which was subsequently repaid), and we note that there is no citation given for that assertion in the report. The severity of the financial collapse in 2008-09 is reflected in the report. As noted, the MCRPD purchased the property for \$2,221,000 prior to the financial collapse, but by February 2011 the appraised market value was \$875,000. We believe the "current" appraised market value may be significantly higher, although the District is no longer actively attempting to sell the property as it has received a substantial grant to improve the property for public use.

### Bankruptcy

There is nothing particularly sinister about obtaining advances on Teeter funds from the County. Many small local agencies make such requests. The request is not made because the District "did not have the finances to pay operating expenses and service the debts". The District does not know what relevance there is to whether or not the funds were "comingled". The MCRPD has a unitary budget.

The District does not need "approximately \$2,000,000 annually to operate". MCRPD's total budget for 2017-18 is \$696,498. The Grand Jury is apparently conflating the CV Starr Center budget with the MCRPD budget; these are two separate budgets. The CV Starr Center is owned by the City of Fort Bragg and is operated under contract by the MCRPD. This arrangement was made in part because the City has the ability to raise funds through sales tax receipts while the District has no such ability. The arrangement has worked out very well for both entities and the citizens of the Mendocino coast. There is no half million dollar "annual structural deficit", and the referenced newspaper article concerns a period prior to the turnover of the CV Starr Center to the City of Fort Bragg.

Regarding the bankruptcy, it is important to note that this is a Chapter 9 bankruptcy the purpose of which is to provide a financially distressed municipality with protection from its creditors while it develops and negotiates a plan for adjusting its debts. The District has been in active negotiations with Westamerica Bank (although the bank has challenged the District's right to seek bankruptcy protection). There is no evidence to support the Grand Jury's conclusion that the District "does not have the money to defend themselves". All attorney's fees are current.

It is hard to understand why the Grand Jury is "dismayed" that there is allegedly no evidence of a "strategic plan". Up until very recently the strategic plan has been to sell the Highway 20 property and pay off Westamerica Bank, and the District has been pursuing that plan for many years. The District is dismayed that the Grand Jury is unaware of this plan.

### Findings

- F 1. There is no evidence to support this inflammatory statement. The District Board of Directors devotes its full attention to being fiscally responsible. Other than the consequences of the failed Highway 20 golf course project, the District is fiscally sound.
- F 2. This statement is false.
- F 3. The District has received advances on Teeter funds, and there is nothing wrong with that. There is no deficit, serious or otherwise in budget planning or the District's long term financial viability.
- F 4. MCRPD is not operating "in structural deficit".
- F 5. MCRPD has completed its annual audits in a timely manner, and provides full public financial disclosure. The Grand Jury evidently misunderstands the public agency audit process.
- F 6. MCRPD supports recreational activities throughout the District. The Grand Jury presumes that Mendocino residents do not use the facilities in Fort Bragg, when in fact these facilities are used by persons from Westport to Elk and beyond.
- F 7. There is nothing improper about the sale leaseback arrangement the District entered into with respect to the Highway 20 property. Had the real estate market not collapsed in 2008-09, which made it impossible to find a golf course developer, the sale leaseback arrangement could have resulted in the development of a world class golf course for the Mendocino coast. The current Board of Directors is effectively addressing the consequences of that global financial failure.
- F 8. As noted above, this could have been a successful project but for the global financial collapse. Certainly it is true that the current Board of Directors is working to address the consequences of that collapse and the associated debt.
- F 9. MCRPD has no doubt that it will continue as a viable entity. The Grand Jury should explain why

it believes that borrowing money for bridge loans constituted "poor judgment". Other than the loan to Westamerica Bank and one private loan, all funds borrowed by the District have been repaid. The \$200,000 private loan has been paid down to \$120,000.

F 10. The District has had a number of strategic plans and is presently holding community forums as it develops its latest plan.

F 11. The District disagrees with the Grand Jury's interpretation of Public Resources § 5788.1.

F 12. MCRPD has maintained proper and complete records, and the Grand Jury report has not identified any records that were either improper or incomplete.

F 13. As the Grand Jury was advised, limited staff and other pressing projects required that the District have additional time to obtain documents (many of which date back ten years or more). It was not necessary for the Grand Jury to issue a subpoena; it was necessary for the Grand Jury to exercise some patience.

### Recommendations

R 1. Agreed, the MCRPD already makes all financial transactions transparent to the public.

R 2. Agreed, and the District has a long standing strategic plan to eliminate unfunded liabilities.

R 3. Disagree. The District intends to continue with its at-large elected Board. Persons from throughout the district are encouraged to run for office. In most years the District does not even have a contested election. On the current Board, like many boards in the past, approximately one-half of the Board members reside outside of Fort Bragg. On the other hand, if the only persons interested in running for a seat on the Board are from Fort Bragg that is not legally suspect.

R 4. No comment.

R 5. No comment.

R 6. Agreed, and the District is already completing its annual audits on time.

R 7. Agreed, and property tax funds are properly allocated to the community. That does not mean that every dollar an individual taxpayer pays is returned to that tax payer. It means that tax dollars are used for the general benefit of the entire district and its residents. The reference to a "five percent allocation from Fort Bragg to MCRPD" is wrong and does not make any sense. The District does not intend to allocate "proportional amounts" to outlying districts.

R 8. Agreed, the District shall finalize the ongoing bankruptcy when that becomes possible. Westamerica Bank has fought the bankruptcy at every step. The District previously had intended to divest itself of the Highway 20 property as part of the resolution of that situation, but at this time is planning to retain the property and develop it for public use.

Respectfully submitted,

  
William Hayes  
Chair, Board of Directors