



RESPONSE PROCEDURE TO GRAND JURY REPORTS

The governance of responses to Grand Jury Final Report is contained in Penal Code § 933 and § 933.05. Responses must be submitted within 60 or 90 days. Elected officials must respond within sixty (60) days. Governing bodies (for example: the Board of Supervisors) must respond within ninety (90) days. Please submit all responses in writing and digital format to the Presiding Judge, the Grand jury Foreperson and the CEO's office.

Report Title : City of Pt Arena Code Enforcement? Report Date : 4/8/16

Response by : City Council Title : City Attorney

Findings

I (we) agree with the findings numbered: F2

I (we) disagree wholly or partially with the Findings numbered: F.1, F3, F4, F5

(attach a statement specifying any portions of the Findings that are disputed; include an explanation of the reasons therefore.)

Recommendations

Recommendations numbered: 1, 2 have been implemented. (attach a summary describing the implemented actions.)

Recommendations numbered: _____ have not yet been implemented, but will be implemented in the future. (attach a time frame for implementation)

Recommendations numbered: _____ require further analysis. (attach an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer and/or director of the agency or department being investigated or reviewed; including the governing body of the public agency when applicable. This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)

Recommendations numbered: R2, R3, R5 will not be implemented because they are not warranted and/or are not reasonable. (attach an explanation.)

Date: 7/1/16 Signed: Denny N. Gross

Total number of pages attached: 2

RESPONSE TO GRAND JURY REPORT

The City of Point Arena City Council (the "City") disputes all findings as follows:

F.1. The City of Point Arena has no effective system in place for code enforcement, thereby placing its residents at risk for their health and safety.

F.1.: The City disagrees in part with this finding. The City has a public nuisance ordinance that provides an effective system for code enforcement that would address any and all health and safety risks posed to residents in the City. Pursuant to that ordinance, the City Manager is tasked with responding to complaints and can authorize a City staff person, if there is no code enforcement officer, to investigate and bring forward violations. The ordinance also provides for a procedure for adjudicating complaints that fulfills due process requirements. The City does not dispute that implementation of the ordinance would benefit from a trained code enforcement officer.

F.2. The County could provide effective code enforcement services for the City via contract.

F.2.: The City Council approved a contract for a Code Enforcement Officer of the County of Mendocino to provide services, earlier this year. It is ready for signature, however, it is unclear whether or not the County has the staffing to provide code enforcement services to the City at this time. The City Manager is in discussion with the Director of the County's Department of Planning and Building Services regarding a contract. The County's Code Enforcement department appears overwhelmed and under-staffed.

F.3. Certain Councilmembers are currently in direct violation of the City Municipal Code regarding land use and zoning, as well as required protocols for providing direction to City staff, and thereby are in violation of their oaths of office.

F.3.: The City wholly disagrees with this finding. There are no current council members in violation of the City Municipal Code at this time.

F.4. The City has been inconsistent in code enforcement, providing preferential treatment for City Councilmembers, while adhering more strictly to the code in the case of some members of the public.

F.4.: The City wholly disagrees with this finding. There has been no evidence of preferential treatment of Councilmembers related to code enforcement. No current Councilmembers are out of compliance with any local, state, or federal laws.

F.5. The Office of the DA is proceeding appropriately and commendably in its filing of criminal charges against the Councilmember and partner for allegedly violating State and County statutes and code.

F.5.: The City wholly disagrees with this finding. The current Mendocino County DA's office does not historically prosecute environmental crimes related to alleged planning and building

violations, such as those alleged herein. Therefore, the prosecution is not appropriate and under these circumstances, is highly suspect. The former Councilmember mitigated the violations immediately after discovery and left the property.

The City Council of Point Arena's Response to Recommendations:

R.1. The City immediately follow through with this its efforts to contract with the County for code enforcement services. (F1, F2)

R.1.: This recommendation has been implemented. The City will continue in its efforts to contract with the County for code enforcement services at an appropriate and affordable level.

R.2. Members of the City Council cease and desist from approaching and applying pressure to City staff in attempts to circumvent City procedures and ordinances. (F3, F4)

R.2.: The recommendation is not warranted. No one on the City Council is approaching or applying pressure to City staff in attempts to circumvent City procedures and ordinances. There is absolutely no documentation or evidence that this has been the case.

R.3. The City take actions to cease code enforcement violations by City Councilmembers. (F3, F4)

R.3.: The recommendation will not be implemented because it is not warranted. There is no evidence at this time that any current Council member is in violation of any local, state or federal laws.

R.4. The City be consistent in its enforcement of land use and zoning codes and immediately cease favoritism toward any individual or group. (F3, F4)

R.4.: Although a Code enforcement officer has not been hired, the land use and zoning functions of the city are now being implemented by a neutral third-party who is an experienced Planner in the coastal zone. There is no evidence of any favoritism by the City.

R.5. The DA monitor the nuisance case and the defendant's compliance with nuisance abatement, and proceed with subsequent criminal prosecution of the City Councilmember charged with a misdemeanor, should the situation warrant such action. (F5)

R.5.: This recommendation is beyond the control of the City Council of the City of Point Arena and therefore, cannot be implemented.