



MEMORANDUM

DATE: JUNE 30, 2011

TO: KATHERINE WYLIE, GRAND JURY

FROM: NASH GONZALEZ, PLANNING AND BUILDING SERVICES DIRECTOR

RE: **REPORT TITLED "ARE WE TALKING YET (FINDINGS # 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17, 18, 21, 22, 23, 24, 25 AND RECOMMENDATIONS # 1 - 6)**

Pursuant to Penal Code Section §933.05, the Mendocino County Civil Grand Jury has requested a response to the Findings and Recommendations contained in the report titled "Are We talking Yet." This response is being transmitted before the due date of July 27, 2011 as requested.

Based on the Grand Jury's Report, the Department of Planning and Building Services was requested to respond to Findings 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17, 18, 21, 22, 23, 24 and 25. The Department was also requested to respond to Recommendations 1 - 6. The Department of Planning and Building Services respectfully submits the following responses:

Findings: Required Response: Mendocino County Department of Planning and Building Services

1. This response is relative to Finding Number 4, which states "Planning and Building Services is responsible for insuring compliance with required permits for construction of all buildings, property improvements and septic systems in the County."

The Mendocino County Department of Planning and Building Services partially disagrees with this finding.

Pursuant to Chapter 18.08 of the Mendocino County Code, except as otherwise exempted by the Building Code and /or County Ordinances, no person, firm, corporation shall erect, construct, enlarge, alter, repair, move, improve, occupy, remove, convert, or demolish any building or structure in the unincorporated area of the County or cause the same to be done without first obtaining a separate building for each such building or structure. Finding 4 is correct with respect to Planning and Building Services having authority over structures and buildings. However, it is the Division of Environmental Health that actually has direct authority over the establishment of septic systems in the County. Pursuant to Chapter 16.08 of the Mendocino County Code, on-site sewage disposal systems are under the authority of the Division of Environmental Health.

Findings: Required Response: Mendocino County Department of Planning and Building Services

2. This response is relative to Finding Number 5, which states “Planning and Building Services has six employees inspecting structures and improvements to comply with permit requirements.”

The Mendocino County Department of Planning and Building Services agrees with this finding.

Currently, the Department of Planning and Building Services has a Chief Building Inspector, one Senior Inspector, a Plans Examiner, and three Building Inspectors. The Department’s Coast office is staffed by the Senior Inspector and a Building Inspector. The Ukiah office is staffed by the Chief Inspector, the Plans Examiner and two Building Inspectors.

Findings: Required Response: Mendocino County Department of Planning and Building Services

3. This response is relative to Findings Number 6, which states “There is in excess of 1200 backlogged nuisance abatement cases in Planning and Building Services.”

The Mendocino County Department of Planning and Building Services partially disagrees with this finding.

Currently there are approximately 1700 abatement cases that the department is trying to address through the prioritization of these cases based on life/safety factors. The prioritization of cases is necessary due to the limited staff in the Department.

Findings: Required Response: Mendocino County Department of Planning and Building Services

4. This response is relative to Finding Number 7, which states “Currently the Assessor’s Office, Planning and Building and County Counsel meet on a regular basis to review Williamson Act contract renewals. Williamson Act contracts involve reductions to assessed tax due to agricultural use.”

The Mendocino County Department of Planning and Building Services partially agrees with this finding.

A committee (Resource Lands Protection Committee) consisting the County Counsel, Assessor, Agricultural Commissioner and a representative from Planning and Building Services meet once a week to discuss and review Williamson Act contract issues.

Findings: Required Response: Mendocino County Department of Planning and Building Services

5. This response is relative to Finding Number 8, which states “All of the land that is privately owned in Mendocino County is assessed and on then tax rolls.”

The Mendocino County Department of Planning and Building Services agrees with this finding.

It is staff’s understanding that this is the case. However, this question would be best answered by the County Assessor.

Findings: Required Response: Mendocino County Department of Planning and Building Services

6. This response is relative to Finding Number 9, which states “The tax rolls are public information and available for public inspection during work hours when the Assessor’s Office is open.”

The Mendocino County Department of Planning and Building Services agrees with this finding.

It is staff’s understanding that this is the case. However, this question would be best answered by the County Assessor.

Findings: Required Response: Mendocino County Department of Planning and Building Services

7. This response is relative to Finding Number 10, which states “There is no written procedure that provides for notification of Planning and Building Services when a structure is found by the Assessor’s Office or Sheriff’s Office that is not on the tax rolls.”

The Mendocino County Department of Planning and Building Services agrees with this finding.

That is correct, there are no written procedures established that formally directs either the Assessor’s Office or the Sheriff’s Office to notify the Planning and Building Services Department of structures found by either of these agencies.

Findings: Required Response: Mendocino County Department of Planning and Building Services

8. This response is relative to Finding Number 11, which states “There is no written procedure calling for the Assessor’s Office to notify Planning and Building Services when a new structure is appraised.”

The Mendocino County Department of Planning and Building Services agrees with this finding.

This is correct. However, when Planning and Building Services receives an application for a permit, a copy of the application along with a set of plan are provided to the Assessor.

Findings: Required Response: Mendocino County Department of Planning and Building Services

9. This response is relative to Finding Number 12, which states “The Assessor’s Office does not inform Planning and Building Services when a new structure is assessed.”

The Mendocino County Department of Planning and Building Services agrees with this finding.

This is correct. There are no written procedures established that require the Assessor’s office to notify Planning and Building Services of when new structures are assessed by the Assessor. Generally structures may be picked up and placed on the tax rolls by the Assessor, but Planning and Building is not notified.

Findings: Required Response: Mendocino County Department of Planning and Building Services

10. This response is relative to Finding Number 14, which states “According to the Assessor, there are laws that prohibit directly informing other departments of County government when a new structure is appraised and added to the tax rolls.”

The Mendocino County Department of Planning and Building Services agrees with this finding.

Planning and Building Services staff has been informed of this by the Assessor’s Office in the past. The Assessor’s Office and the Department of Planning and Building Services has to the extend possible within the law staff cooperatively work together on many matters. However, staff understands that there are restrictions by which the Assessor is bound by.

Findings: Required Response: Mendocino County Department of Planning and Building Services

11. This response is relative to Finding Number 16, which states “Planning and Building Services, the Assessor’s Office, and the Sheriff’s Office do not meet to coordinate actions regarding newly found structures.”

The Mendocino County Department of Planning and Building Services agrees with this finding.

There is currently no set policy that the Sheriff, Planning and Building Services and the Assessor’s Office meet on a regular basis to discuss newly found structures. The Sheriff’s office in the past has on occasions notified Planning and Building Services when it was believed a structure may have been established without benefit of permits. There could very well be a committee comprised of representatives from each agency established that would meet on a regular basis to discuss unpermitted structures. However, this will be predicated on what

information the Assessor's office maybe able to share. It should also be recognized that with all departments having staffing constraints, regular meetings may not be possible.

Findings: Required Response: Mendocino County Department of Planning and Building Services

12. This response is relative to Finding Number 17, which states "Planning and Building Services must review assessed tax rolls on a regular basis to find newly assessed structures in order to determine if any permits were not obtained."

The Mendocino County Department of Planning and Building Services disagrees with this finding.

Planning and Building services does not have access to the tax rolls. The Department has access to the Assessor Secured Property System that only allows Planning and Building staff to view improvement values, but no details as to specifically what those improvements are. What is also available to PBS staff on this system is property addresses, zoning and property owners names. This would not allow staff to determine what is permitted or not permitted without an exhaustive effort.

Findings: Required Response: Mendocino County Department of Planning and Building Services

13. This response is relative to Finding Number 18, which states "Planning and Building Services informs the Assessor's Office when an issued permit is inspected and the structure is determined as completed."

The Mendocino County Department of Planning and Building Services disagrees with this finding.

When the Department of Planning and Building Services receives and application for a permit, a copy of the application along a one set of the plans are provided to the Assessor. It is the responsibility of the Assessor's Office to track the application to completion. The Department of Planning and Building Services does not notify the Assessor's office when the permit has been "finaled" or the structure has received a certificate of occupancy. Additionally, the Assessor's office has the ability to completely track the status of the permit.

Findings: Required Response: Mendocino County Department of Planning and Building Services

14. This response is relative to Finding Number 21, which states "There is publically available compliant form that can be filed with Planning and Building Services. The Sheriff can use this form when apparently unpermitted structure is found."

The Mendocino County Department of Planning and Building Services agrees with this finding.

There is a publically available compliant form available at Planning and Building Services front counter or the form can be downloaded from the Department's web page at the following: www.co.mendocino.ca.us/planning/codenforce.htm

A written complaint can be submitted by any member of the public or the Sheriff's Department may also utilize the compliant form. Use of the compliant form allows for proper documentation of complaints and minimizes frivolous complaints.

Findings: Required Response: Mendocino County Department of Planning and Building Services

15. This response is relative to Finding Number 22, which states "Planning and Building Services provided an amnesty program for building permits that waived the investigative penalty fee, where owners self-reported their failure to obtain the required permits. This amnesty program expired on December 31, 2010."

The Mendocino County Department of Planning and Building Services agrees with this finding.

The Department of Planning and Building Services anticipated in 2009 that the Building Code would be changing with more restrictions being added in for the 2011 building code cycle. Therefore in an attempt to gain voluntary compliance, the Department initiated an amnesty program that would allow for self-reporting by individuals and would waive the investigative fee, which is typically double the permit fee provided individuals applied under the amnesty program by December 31, 2010. The Department received approximately 205 applications for a variety of structures and improvements, including single family residences, garages, and detached accessory buildings. The amnesty program provided for one year, providing individuals ample time to apply for the program.

Findings: Required Response: Mendocino County Department of Planning and Building Services

16. This response is relative to Finding Number 23, which states "As of January 1, 2011, new state mandated rules for buildings became effective. These rules will increase the cost of building a structure in California and will require additional inspections."

The Mendocino County Department of Planning and Building Services agrees with this finding.

The most significant change in the 2011 Building Code for all new residences constructed in California is the requirement to install fire sprinkler systems, which can add to the cost of a new residence.

Findings: Required Response: Mendocino County Department of Planning and Building Services

17. This response is relative to Finding Number 24, which states "Planning and Building Services is not an enterprise department."

The Mendocino County Department of Planning and Building Services agrees with this finding.

The department as it is structured today is dependent on the general fund and does not generate for profit revenue and is not an enterprise fund department.

Findings: Required Response: Mendocino County Department of Planning and Building Services

18. This response is relative to Finding Number 25, which states “Planning and Building Services could generate enough in fees from code enforcement for that operation to become an enterprise department if staffing was increased.”

The Mendocino County Department of Planning and Building Services partially disagrees with this finding.

It is quite possible that code enforcement could be turned into an enterprise operation provided there were adequate staff assigned to the Department to address all existing and new complaints. Without the appropriate number of staff, the department cannot address all of its open violation cases and has thus prioritized them based on immediate life and safety. It should be noted that the purpose of code enforcement is to achieve compliance and not solely impose and collect fees. Many cases are resolved without imposing fees due to voluntary compliance and education of codes and regulations is also what the code enforcement division personnel stride for.

Recommendations: Required Response: The Mendocino County Department of Planning and Building Services

This response is relative to the following Recommendations 1 through 6 found on page 3 of the Grand jury’s report, dated April 27, 2011, Titled, “Are We Talking Yet?”:

1. The Assessor’s office notify Planning and Building Services upon the assessment of a newly appraised building (Findings 10-12)

The recommendation can be implemented because it is warranted or reasonable.

The Department of Planning and Building Services is more than willing to sit down and meet with both the Assessor and the Sheriff and establish a coordinated effort. However, this will be dependent on what information the Assessor can provide the Department of Planning and Building Services.

Recommendations: Required Response: The Mendocino County Department of Planning and Building Services

2. The Assessor’s office, Planning and Building Services and Sheriff’s Office meet on a regular basis, not less than quarterly, to discuss problems and concerns about unpermitted and unassessed properties. (Findings 10-20)

The recommendation can be implemented because it is warranted or reasonable.

The Department of Planning and Building Services is more than willing to sit down and meet with both the Assessor and the Sheriff and establish a coordinated effort.

Recommendations: Required Response: The Mendocino County Department of Planning and Building Services

3. The Assessor's office, Planning and Building Services and Sheriff's office coordinate and establish written procedures to easily exchange information regarding unpermitted and unassessed properties. (Findings 10-20)

The recommendation can be implemented because it is warranted or reasonable.

The Department of Planning and Building Services is more than willing to sit down and meet with both the Assessor and the Sheriff and establish a coordinated effort.

Recommendations: Required Response: The Mendocino County Department of Planning and Building Services

4. The Assessor's Office, Planning and Building Services and Sheriff's Office establish written procedures for deputies to accompany county employees on potentially dangerous inspections of property in the County. (Findings 2, 5, 13, 16)

The recommendation can be implemented because it is warranted or reasonable.

The Department of Planning and Building Services is more than willing to sit down and meet with the Sheriff and establish a coordinated effort, including written procedures. However, it should be noted that currently when an inspection warrant needs to be served, the Sheriff's Department provides assistance for this effort.

Recommendations: Required Response: The Mendocino County Department of Planning and Building Services

5. Planning and Building Services clear all backlogged nuisance abatement cases. (Finding 6)

The recommendation will not be implemented because they are not warranted/ and or are not deemed reasonable.

It is difficult to clear all backlogged nuisance abatement cases at the present time due to staffing constraints. Secondly, the clearing of all cases must be a coordinated effort with County Counsel, who is also facing staffing constraints. The department has prioritized the cases, with those that involve life/safety concerns as well as those deemed as most egregious as top priority.

Recommendations: Required Response: The Mendocino County Department of Planning and Building Services

6. The Board of Supervisors designate Planning and Building Services' code enforcement

operations as an Enterprise department and increase staffing, realizing increased staffing will be offset by increased revenues from Code Enforcement process. (Findings 23-25)

- The recommendation will not be implemented because it is not warranted or is not reasonable.

The purpose of code enforcement is not to increase revenues through the enforcement process, but rather achieve compliance with all applicable codes and ordinances. The implementation of this recommendation will be left to the Board of Supervisors.