

## **RESPONSES TO GRAND JURY REPORTS SUMMARY OF PC 933.05**

Penal Code § 933.05 provides for only two (2) acceptable responses with which agencies and/or departments (respondents) may respond with respect to the **findings** of a Grand Jury report :

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

Penal Code § 933.05 provides for only four (4) acceptable responses with which agencies and/or departments (respondents) may respond with in respect to the **recommendations** of the Grand Jury.

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be 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, with a timeframe for the matter to be prepared for discussion by the officer or head of the agency/department being investigated or reviewed, including the governing body of the public agency when applicable. *This timeframe shall not exceed six (6) 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 a detailed explanation therefore.

However, If a finding and/or recommendation of the Grand Jury addresses **budgetary** or **personnel** matters of a county agency/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/department.

## 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 :** MCRPD LOST ALMOST THREE MILLION DOLLARS  
IN GRANT FUNDS FROM THE STATE OF CALIFORNIA **Report Date :** June 28, 2021

Response by : Barbara Burkey Title : Board Chair

### Findings

- I (we) agree with the findings numbered:  
F 3 and F 5
- I (we) disagree wholly or partially with the Findings numbered:  
F 1, F 2, F4 and F 6

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

### Recommendations

- Recommendations numbered: R4 and R6 have been implemented. ( attach a summary describing the implemented actions. )
- Recommendations numbered: R 1, R 2, R 3 have not yet been implemented, but will be implemented in the future. ( attach a time frame for implementation )
- Recommendations numbered: R 5 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: \_\_\_\_\_ will not be implemented because they are not warranted and/or are not reasonable. ( attach an explanation.)

Date: 9/1/2021 Signed: Barbara Burkey

Total number of pages attached: 5

August 26, 2021

Kevin Evans, Foreperson  
Mendocino County Civil Grand Jury  
P. O. Box 939  
Ukiah, CA 95482-0939

Re: MCRPD Response to Grand Jury Report

Dear Foreperson Evans and Grand Jurors:

The Mendocino Coast Recreation and Parks District (“MCRPD” or the “District”) appreciates this opportunity to respond to the recently released Grand Jury report dated June 28, 2021. The District recognizes the role of the Grand Jury to review and investigate local government within Mendocino County and its cities and special districts as well as the importance of this role. As the governing body of the Mendocino Coast Recreation and Park District (MCRPD), we the Board are respectfully responding as follows.

On July 21, 2021, at the MCRPD Regular Board of Directors meeting, the Board discussed all findings and recommendations of the Grand Jury Report. The responses of the Board have been compiled, recorded, and agreed to as presented below.

**Grand Jury Findings:**

- F 1. MCRPD lost the opportunity to receive more than \$2.5 million in grant funds because it operated in violation of State Codes and guidelines pertaining to the administration of the CAOHPD Grants and award of the fence contract per PCC section 20682.5 (b).

**MCRPD Response.**

The Board had mixed responses to this finding. Mr. Bushansky expressed his concern with the Grand Jury not interviewing the Board members who served on the Board during this time. Mr. Bushansky firmly believes that if the Grand Jury had done a more in-depth investigation on this finding, the results of the Grand Jury investigation may have been different.

Mr. Huff disagrees with this finding, because sixteen (16) requests for proposal bid packets were sent out with only two (2) responses received back by MCRPD. Of the two (2) bids received, one (1) was found to be unresponsive.

The remainder of the Board, including the newest members of the MCRPD Board of Directors, are in agreement that all future bids need to be handled differently.

- F 2. MCRPD incurred debt which it has been unable to repay and led to bankruptcy because of purchasing the Highway 20 property prior to the completion of the feasibility study for the intended purpose of a golf course and the possible mismanagement of public funds.

**MCRPD Response.**

The present Board does not have enough knowledge of relevant past events to either fully agree or disagree with this finding. All Board members agree that MCRPD has incurred debt as a result of purchasing the Highway 20 property. Again, the majority of the current Board does not have enough knowledge of past events to either agree or disagree that alleged mismanagement of public funds lead to the District's bankruptcy petition nor can the current Board speculate as to the hypothetical impact of the timing of the feasibility study on the District's bankruptcy petition.

- F 3. MCRPD BOD does not have an effective mechanism to ensure training and compliance with conflict-of-interest rules.

**MCRPD Response.**

Agree: An effective mechanism or policy was not in place at the time of the alleged conflicts of interest. MCRPD has since developed relevant policies and training programs to facilitate future compliance in response to this finding.

- F 4. MCRPD risks civil litigation or statutory violations as MCRPD BOD and Executive staff do not receive initial and annual training in Brown Act, Ethics and Harassment in compliance with AB1234.

**MCRPD Response.**

Disagree: This training might have not occurred consistently in the past, but currently Brown Act, Ethics, and Harassment training are provided to each Board member at the beginning of each year and compliance records will be retained by MCRPD. To further ensure that these trainings take place as required going forward, an MCRPD policy has been developed, which all Board members will be required to sign in acknowledgment that this training is required.

- F 5. MCRPD risks potential conflicts of interest and potential litigation as Bylaws do not require attendance of Counsel at its BOD meetings.

**MCRPD Response.**

Agree: Possibilities of reducing this risk are currently being explored by

MCRPD. The District is evaluating the financial feasibility of retaining legal counsel to be present at each Board meeting along with other possible solutions.

- F 6. MCRPD fails to provide financial transparency to the public as monthly financial statements are not routinely published for public viewing. Monthly financial statements would identify revenue sources such as rental fees, expenditures, and capital commitment.

**MCRPD Response.**

Disagree: All District financials are readily available to the public. Financial reports are included as part of every Board packet, which the public has access to at any time either online or by request to District staff. Moving forward, all Finance Committee Packets will also be listed separately online to allow for easier accessibility to the public.

**Grand Jury Recommendations:**

- R 1.** MCRPD's BOD should amend its Bylaws within 60 days following release of this GJ report to require independent professional legal guidance for any project to assure that all Grant(s) and the award of contracts comply with State codes and guidelines to guard against the loss of grant funding due to conflicts of interest and outdated bylaws. (F1)

**MCRPD Response.**

Both staff and Board are currently working on implementing this recommendation moving forward. MCRPD shall have its bylaws updated and amended by November 22, 2021.

- R 2.** MCRPD's BOD should engage a professional consultant to develop a feasibility study and strategic plan prior to the initiation of any capital improvement project (CIP). MCRPD should document and publish the report for public review and comment at least 60 days prior to the award of contract for any CIP. Complete disclosure and public notice in the letting of all Special District contract may avoid the loss of grant funding due to conflicts of interest and outdated bylaws. (F2)

**MCRPD Response.**

Currently MCRPD has no capital improvement projects underway. These recommendations will be implemented immediately and followed as capital improvement projects occur moving forward.

- R 3.** MCRPD's BOD should engage an independent Outside Counsel to review its Bylaws within 90 days of this report; MCRPD's Bylaws should be updated annually with outside Counsel at the beginning of each new term and post them on MCRPD's website to them available to the public. (F3)

**MCRPD Response.**

Currently MCRPD is working with outside legal counsel to review and update its Bylaws as necessary. Bylaws will be updated and adopted by November 22, 2021.

- R 4.** MCRPD's BOD within 60 days of the start of their term and annually should receive training for Brown Act, Ethics and Harassment laws and regulations as required. All staff at the start of employment and annually thereafter should receive training for Brown Act, Ethics and Harassment laws and regulations as required. Records should be maintained to track participation. (F4)

**MCRPD Response.**

New and updated policies have been developed to ensure all Board members and staff are aware of and comply with the requirement to complete these trainings at the beginning of their initial term as well as annually or as otherwise required.

- R 5.** MCRPD's BOD shall retain legal counsel with required attendance at every BOD meeting to avoid actions that may violate Federal, State, County, Local, Penal Code, Ethics or Brown Act violations.

**MCRPD Response.**

MCRPD staff is currently interviewing legal counsel and exploring the financial feasibility of this recommendation. MCRPD will evaluate funding available, if determined this is financially feasible, MCRPD shall amend its annual budget accordingly. Other possible solutions are also being explored to reduce the possibility of any violation in the future. MCRPD shall complete this analysis by December 28, 2021.

- R 6.** MCRPD shall prepare and publish on its website a monthly financial report as approved by the BOD to provide transparency to the public. This report should include a review of the monthly accounting of checks issued and revenue received. (F6).

**MCRPD Response.**

This recommendation has been implemented by MCRPD. Staff worked with our

web designer to provide members of the public with easy and clear access to all MCRPD financial reports.

**Conclusion:**

All recommendations above, excluding recommendation R 5, have been implemented or are currently in the process of being implemented by MCRPD. It is the Board's intent to implement the agreed-upon recommendations within ninety (90) days of its receipt of the Grand Jury report, subject to the availability of outside legal counsel for the necessary review. MCRPD staff and the Board are also evaluating the feasibility of implementing recommendation R5.

The MCRPD Board would like to thank the Grand Jury for allowing us the time to respond fully to the entirety of the Grand Jury report dated June 28, 2021.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B Burkey". The signature is written in a cursive, flowing style.

Barbara Burkey  
Chair, MCRPD Board of Directors