MARIPOSA COUNTY
BOARD OF SUPERVISORS

DEPARTMENT: Administration

AGENDA ACTION FORM

RECOMMENDED ACTION AND JUSTIFICATION:
Adopt a resolution approving the response of the Board of Supervisors to the 2007-2008 Mariposa County Grand Jury Final Report and direct County Administration to transmit the response to the Presiding Judge of the Mariposa County Superior Court.

The California Penal Code requires that affected Department Heads, Elected Officials, and the Board of Supervisors respond to each year's Final Grand Jury Report within the specified time limits. The Board as governing body of the public agency must comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under its control within ninety days of when the Grand Jury submits its final report.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board has responded to the Grand Jury Final Report in previous years.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Approve the draft response with revisions.

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Clerk's Use Only:
Vote - Ayes: 5 Nocs: 
Absent: 
Approved
Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: 
Attest: MARGIE WILLIAMS, Clerk of the Board County of Mariposa, State of California
By: 
Deputy

COUNTY ADMINISTRATIVE OFFICER:
Requested Action Recommended No Opinion
Comments:

CAO: 

Rev. Dec. 2002
COUNTY of MARIPOSA
P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

LYLE TURPIN, CHAIR
DIANNE A. FRITZ, VICE CHAIR
BRAD ABORN
JANET BIBBY
BOB PICKARD

MARIPOSA COUNTY BOARD OF SUPERVISORS
MINUTE ORDER

TO: RICHARD J. BENSON, CAO
FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: Adopt a Resolution Approving the Response of the Board of Supervisors to the 2007-2008 Mariposa County Grand Jury Final Report and Direct County Administration to Transmit the Response to the Presiding Judge of the Mariposa County Superior Court

RESOLUTION No. 08-473

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on October 7, 2008

ACTION AND VOTE:

Adopt a Resolution Approving the Response of the Board of Supervisors to the 2007-2008 Mariposa County Grand Jury Final Report and Direct County Administration to Transmit the Response to the Presiding Judge of the Mariposa County Superior Court (County Administrative Officer/Personnel/Risk Manager)

BOARD ACTION: Discussion was held with Rick Benson relative to the response. Marvin Wells, Grand Jury Foreperson for 2007-08, responded to a question from the Board to clarify their recommendation that the Board investigate and develop a method for the Sheriff Department to collect impact fees for requested services from all outside vendors... He advised that this recommendation pertains to the Department providing law enforcement patrol for events. (M)Bibby, (S)Aborn, Res. 08-473 was adopted approving the response with the typographical correction and with clarification to be added that the County will explore the possibility of charging for law enforcement patrol for events/Ayes: Unanimous.

Cc: Mary Hodson, Deputy CAO
File
October 8, 2008

Honorable F. Dana Walton
Judge of the Superior Court
County of Mariposa
Post Office Box 28
Mariposa, California 95338

Dear Judge Walton:

Enclosed is the response of the Mariposa County Board of Supervisors to the 2007-2008 Mariposa County Grand Jury Final Report. The Clerk of the Board of Supervisors and the County Clerk will keep copies of the report and this response on file. A file copy will also be submitted to the 2008-2009 Grand Jury.

We at the County appreciate the quality of the 2007-2008 Final Report and the many hours of work that it represents.

Sincerely,

RICHARD J. BENSON
County Administrative Officer

RB/mbh

cc: Board of Supervisors
    Affected Department Heads
    Keith Williams, County Clerk
    2008-2009 Grand Jury
    Margie Williams, Clerk of the Board
Board of Supervisors Response and Comments on the
2007-2008 Mariposa County Grand Jury Findings and Recommendations

Mixed Waste Processing/Composting Project
The grand jury made several findings and recommendations regarding the mixed waste processing/composting project. The Mariposa County Board of Supervisors has reviewed the response of Dana Hertfelder, Public Works Director dated March 24, 2008, and concurs with his response.

Those issues relating to the Board of Supervisors are addressed below.

Findings
1. We found that a member of the public questioning and airing their concerns to a member of the Board of Supervisors regarding this compost project was not answered until one year later.

   Without more specific information, this Board cannot comment regarding questions from a member of the public.

2. A tape by the complainant of the Board of Supervisors meeting dated 6/10/2003. The tape supplied to the Grand Jury by Mariposa County from the same date doesn't have any portion of that conversation. This is definitely an incident of incomplete records.

   The Board of Supervisors strongly disagrees with this finding. No follow up was conducted with county staff to determine if the tape was not completely copied, or if perhaps the incorrect date was given.

3. Eight Mariposa officials traveled to Canada in October 2000 but did not document a justification for the trip, destination, analysis or conclusions in any written report, as it related to the Compost Project.

   The County Administrative Officer has provided this Board with information that Mariposa officials traveled to Canada for the purpose of investigating the potential for a compost facility and that no official written document was published as a result of this trip.

4. Discrepancies were found in the total dollar amounts for travel expenses, submitted by the eight individuals who visited Canada in October 2000.

   The County Administrative Officer after consulting with the County Auditor has informed this Board that there are no discrepancies regarding the travel expenses for the October 2000 trip. Governmental accounting regulations allow for copies of invoices (receipts) to be destroyed after five years. Receipts are not kept indefinitely and the Auditor's office has already purged records from 2000. Differences in travel expenses do not necessarily mean there are discrepancies.
Recommendations

1. Recommendation that all Chairpersons of the Board of Supervisors take a course in ethics and how to use “point of order” to conduct meetings.
   Assembly Bill 1234 requires that certain government officials (which includes members of the Board of Supervisors) complete training in ethics every two years commencing January 1, 2007. Mariposa has complied with this requirement and affected officials will again be completing this training in 2008. Newly elected officials to the Board of Supervisors are encouraged to attend the California State Association of Counties (CSAC) training on conducting public meetings. Since 1997, all new Board members have attended this training.

2. Raise the County’s policy of only $3,000 allowance for expenditures to $7,000, without going through the process of securing approval from the Board of Supervisors. According to current county policy, any single item over $5,000 is considered a fixed asset and must be approved by the Board of Supervisors. This threshold was recently raised from $3,000 to $5,000 in 2006. The Board may consider raising this limit upon recommendation by the County Administrative Officer and/or the Auditor. Governmental accounting standards require that all fixed assets be approved by the governing body, but that each governing body determines their fixed asset threshold appropriate to their specific circumstances. Typically a government’s threshold correlates to its size.

3. Update the compost unit through a few modifications/changes at a costly, but acceptable cost, to produce saleable compost; authorize a study of such.
   Given the budget constraints of the existing Solid Waste/Recycling fund, this study is not fiscally prudent at this time. The Board may consider such a study at a later date upon the recommendation of the Public Works Director and/or the Solid Waste Committee. Any and all such improvements to the composting facility must be carefully considered since any increase in costs will be reflected in fees charged to the facility’s users.

4. Pass an ordinance which states in effect that “Any county employee who travel out of state or country, to inspect, research or gather information relating to a capital expenditure, is required to submit a written report of their analysis, recommendations and conclusions.”
   An ordinance is a legal document and a policy may be more appropriate for this circumstance. The Board may direct county employees traveling out of state or country to conduct research, and to submit a written document detailing the outcome of the research at the time expenditures are approved by the Board for such travel.

5. The $42,967.77 left in the Compost Project not be diverted to the General Fund. These moneys should be used to escalate the efficiency in removing plastics from the garbage or in some other way related to landfill operations.
   With the completion of the Compost Project, all operating costs are now accounted in the Solid Waste/Recycling fund, which is an enterprise fund and should be self-sufficient. Staff is researching the possibility that any General
Fund dollars contributed to this project is to be considered a loan and should be repaid. Until this issue is resolved, Administration recommended that the unused money remain in the fund.

   The Local Solid Waste Task Force is currently contemplating various recycling programs and the costs associated with implementing these programs. A mandatory recycling program will almost certainly require additional enforcement personnel and other associated costs. Additional studies are required to fully identify the implications of a mandatory recycling program.

7. Pass an ordinance prohibiting discarding garbage and waste on private property.
   Chapter 8.36 of the County code governs this issue.

8. All county departments owe it to the taxpayers to work as a team. The department heads, and ultimately the Board of Supervisors, should see that this does not happen again.
   The Board of Supervisors is always striving to have county government operate as a team, and appreciates the efforts and dedication of the elected and appointed department heads in directing county staff in this endeavor.

9. The Board of Supervisors should consider the feasibility of changing the landfill site sign to READ “Waste and Recycling Facility.”
   Upon consulting with the Public Works Director, the Board may consider this recommendation.

10. There should be an annual mandatory recycling seminar for all county supervisors and department heads.
    Literature is provided to each department regarding recycling. Currently individual departments already practice certain recycling – printer/fax cartridges, aluminum/plastic containers, paper, etc. Expanding these practices to all departments may be considered in the future.

Mariposa County Jail/Sheriff Department

The Mariposa County Board of Supervisors has reviewed the response of Brian Muller, County Sheriff dated January 28, 2008, and concurs with his response, noting that new funding requests will be reviewed within the constraints of funding availability.

Recommendations:
1. The Board of Supervisors definitely needs to look into other alternatives for covering inmates’ medical costs. Outside contracts with drug companies and/or doctor services would be a good start. If it is legal, they may want to consider a cap on inmate medical expenses.
California law is very clear that medical care must be provided to inmates. The Board of Supervisors takes the recommendation of the elected County Sheriff on which medical providers to use for providing such services. Currently under California law no cap can be set upon medical expenses.

2. Some of the department's equipment (vehicles, computers, radios, etc.) is outdated and replacement should be accelerated in a short-range budget. If this is not done it will develop into a very serious problem that will rapidly deteriorate and it needs the immediate attention from the Board of Supervisors.

The Board of Supervisors relies upon the recommendation of the elected County Sheriff to request additional funding for equipment replacement. Funding for the replacement of equipment was requested and included in the adopted Fiscal Year 2007-08 Budget.

3. With the Sheriff's budget currently being considerably in the red due to their employees' benefits and retirement funds, we strongly recommend that the Board of Supervisors immediately review this situation and take action in aiding a solution.

The Board of Supervisors is aware of the rising costs of employee benefits and retirement costs and County Administration staff is currently working on a funding solution. Issuing bonds as a funding mechanism has been postponed and staff is now working with CalPERS on another funding solution.

4. It is recommended that the Board of Supervisors investigate and develop a method for the Sheriff Department to collect impact fees for requested services from all outside vendors and especially those that make a profit.

It is unclear to the Board of Supervisors what vendors the recommendation pertains to. Generally speaking, "impact fees" are financial contributions (i.e., money, land, etc.) imposed by communities on developers or builders to pay for capital improvements within the community which are necessary to service/accommodate the new development. Again, the Board of Supervisors relies upon the recommendation of the elected County Sheriff on imposing fees for specific services. The County Administrative Officer will confer with the Sheriff regarding the possibility of charging for services at specific events and will give a report to the Board of Supervisors by January 2009.

Master Gardeners

The Mariposa County Board of Supervisors has reviewed the response of Thomas Guarino, County Counsel dated February 5, 2008, and the response of Karen Robb, Farm Advisor dated February 7, 2008, and concurs with their respective responses.

Those issues relating to the Board of Supervisors are addressed below.

1. Also, the complainant was concerned if the Master Gardeners were in violation of the Brown Act. While the Grand Jury could not find any violation of the Master Gardeners violating the law, the Board of Supervisors recommends that future
complaints involving the Brown Act be forwarded to the District Attorney as provided by California law.

2. It is recommended that when a citizen questions the legality of anything connected to the County that County Counsel research the issue and notify the complainant in writing of their findings.

   County Counsel serves as the legal adviser to the Board of Supervisors, County departments, agencies and commissions. It is not the duty of County Counsel, nor is it within the resources of the County, and the office of County Counsel in particular, to provide written legal opinions to constituents. This recommendation will not be implemented.

Public Works Complaint

No recommendation. The issue was resolved by the Board of Supervisor of the affected District.

Sheriff's Deputy Complaint

No recommendation. The county employee under review had resigned prior to the Grand Jury's investigation.

Mariposa Planning Department

No recommendation. The complainant did not give their name, contact information, or sign the complaint form, so no investigation was conducted.

Mariposa County Audit and Finance Report

The Mariposa County Board of Supervisors has reviewed the Grand Jury Final Report and the response of Christopher Ebie, County Auditor dated July 10, 2008, and concurs with his response.

Recommendations:
1. The Board of Supervisors include the County Auditor's input regarding affordability and feasibility in all capital expenditures prior to approval and on the record.

   The County Administrative Officer (CAO) works in close coordination with the County Auditor regarding the County's financial status. Prior to recommending capital expenditures the CAO typically reviews and confirms the County's ability to fund these types of endeavors with the County Auditor. The Board of Supervisors has also solicited the advice of the County Auditor during deliberations of large financial expenditures, such as the issuing of pension obligation bonds.
Mariposa County District Attorney’s Office

The Mariposa County Board of Supervisors has reviewed Grand Jury Final Report and the response of Robert Brown, District Attorney dated August 18, 2008, and concurs with his response to the Grand Jury’s recommendations.

Recommendations:
1. Mariposa County meet the needs of the staffing of the District Attorney’s Office and be more competitive with a salary grade table based on job responsibilities.
   The Board of Supervisors approved an additional Deputy District Attorney I/II position and a Legal Secretary position during the Mid-Year review. Additional staffing will be dependent upon the County’s financial ability and must be balanced with continuing to fulfill equally vital and important services. The County does maintain an equitable salary grade table based upon job responsibilities.

2. Mariposa County purchase two vehicles for the District Attorney’s Office.
   The District Attorney is currently assigned one county vehicle which is accumulating depreciation and replacement charges each month. The Fleet Superintendent has established a replacement schedule based upon the age and use of each vehicle. This vehicle will be replaced upon the recommendation of the Fleet Superintendent. An additional vehicle was requested for the additional District Attorney Investigatory position during the Fiscal Year 2008-09 budget process, but due to budget constraints the position and the vehicle were not approved.

3. Mariposa County provide adequate office space for the District Attorney’s Office staff and all their records.
   The Board of Supervisors approved funding to rent additional office for the District Attorney’s office during the Fiscal Year 2008-09 Final Budget Hearings.

Williamson Act Tax Rate Complaint

The Mariposa County Board of Supervisors has reviewed the Grand Jury Final Report and the response of Becky Crafts, Assessor/Recorder dated July 9, 2008, and concurs with her response.

Planning Department Complaint

The Mariposa County Board of Supervisors has reviewed the Grand Jury Final Report and the response of Kris Schenk, Planning Director dated July 24, 2008, and concurs with his response.
North County Report


Coulterville Recommendation
1. Install a backup well, pump, and water storage tank.
   The Mariposa County Board of Supervisors will solicit advice from the Public Works Director on this recommendation, and begin the implementation of such if feasible.

2. Replace the two old fire trucks in Coulterville.
   With the recent passage of County Service Area #3, it is anticipated that a new fire truck will be in place at the Coulterville Fire Station sometime in 2009.

Lake Don Pedro Recommendation
1. Lake Don Pedro is in need of new/newer fire trucks.
   With the recent passage of County Service Area #3, it is anticipated that a new fire truck will be in place in the Lake Don Pedro sub-station sometime in 2009.

Greeley Hill Recommendation
1. Schools: Consider building a high school in the near future.
   The Mariposa County Board of Supervisors has no authority or jurisdiction over the Mariposa County Unified School District.

2. Park: The park and park facilities be kept and maintained at the high standard they were found and always open and accessible to residents and the public.
   The Mariposa County Board of Supervisors takes pride in the work of county employees and commends the Public Works Department employees on their work in maintaining the park.

3. Roads: The streets and roads should be brought up to today's Road Standards and Street Codes.
   The Mariposa County Board of Supervisors takes the recommendation of the Public Works Director on which county roads should be upgraded each fiscal year. These needs must be balanced with the needs of the entire county road system and managed with a limited amount of funding and man-power.

4. Transfer Station: The Transfer Station should open more frequently to the residents.
   The Mariposa County Board of Supervisors heeds the recommendation of the Public Works Director on the hours of operation based upon the current demand. To date, the Board is unaware of a problem with insufficient hours of operation at this transfer station.
5. Greeley Hill Fire Department: This issue will eventually lead to a disaster if not addressed.
   With the recent passage of County Service Area #3, it is anticipated that a new fire truck will be in place at the Greeley Hill Fire Station sometime in 2009.

**Final Recommendation on North County Report:**
Mariposa County Board of Supervisors follow-up with a “letter of intent” to the 2008-2009 Mariposa County Grand Jury for their review by October 15, 2008, on your decision regarding these issues.
   The Mariposa County Board of Supervisors provides copy of this response to the next Grand Jury and believes that this response is sufficient.

**Child Abuse Mandated Reporter Complaints**

The Mariposa County Board of Supervisors has reviewed the Grand Jury Final Report and the response of Jim Rydingsword, Human Services Director dated July 14, 2008, and concurs with his response to the Grand Jury’s recommendations. It should be noted that the Board of Supervisors will heed the advice and recommendation of the County Administrative Officer and the Human Services Director regarding implementing a policy mandating annual training for all mandated reporters in the employ of the County.

**Mariposa County Administration Department Tour**

The Mariposa County Board of Supervisors has reviewed the Grand Jury Final Report and the response of Richard Benson, County Administrative Officer dated August 4, 2008, and concurs with his response to the Grand Jury’s recommendations.
April 22, 2008

Honorable Wayne R. Parrish  
Superior Court Judge, County of Mariposa  
Post Office Box 38  
Mariposa, California 95338

Dear Judge Parrish:

Enclosed is the response and comments of the Mariposa County Board of Supervisors to the 2007-2008 Mariposa County Grand Jury Final Report #1. The Clerk of the Board of Supervisors and County Clerk will keep copies of the report, and this response and comments on file.

In the “findings” discussion and in the recommendations concerning the mixed waste processing/composting project, the Grand Jury raises a question which demands a response. It is alleged that a portion of the tapes from the June 10, 2003, Board of Supervisors meeting were either erased or are missing. The Grand Jury further states, “This is definitely an incident of incomplete records.” Respectfully, the Mariposa County Board of Supervisors cannot let this statement stand without comment. The Board of Supervisors wishes to go on record that it has every confidence in Ms. Margie Williams the Clerk of the Board. Ms. Williams has served the citizens of Mariposa County for over 25 years, is known for her integrity and performs her duties with utmost care and competence. Any perceived discrepancy in the tapes was most likely the result of equipment malfunction, an incorrect date or other incorrect information being provided to the Grand Jury.

We at the County appreciate the hard work and efforts of the Grand Jury in investigating complaints and realize the many hours of work this report represents.

Sincerely,

RICHARD J. BENSON  
County Administrative Officer

RB/mbh  
Enclosure

cc: Affected Departments  
Keith Williams, County Clerk  
Margie Williams, Clerk of the Board
The Honorable F. Dana Walton
Assistant Presiding Judge of Mariposa Superior Court
5088 Bullion Street
Mariposa, CA 95338


Dear Honorable Judge Walton:

Following is the Public Works Department’s response to the 2007-2008 Mariposa County Grand Jury report.

Mixed Waste Processing/Composting Project

Findings

1) The Department of Public Works agrees that the public has a misconception of the operation of the compost facility and its intended purpose.

2) The Department of Public Works does not agree that the County waited until the last minute to initiate this project to help meet the California State 50 percent reduction mandate. Work on complying with the mandated 50 percent reduction was initiated in the early 1990’s by the County.

3) The Department of Public Works agrees that County officials traveled to Canada to visit the Herhof compost facility prior to entering into a contract for the construction of the facility.

4) The Department of Public Works agrees that as of December 15, 2007, Mariposa County had not met the California State Mandate of 50% reduction of solid waste.

5) The Department of Public Works agrees that the information provided to the County by a consultant regarding mixture levels of debris, garbage, plastics, metals, greens, etc was proven to be inaccurate.

6) The Department of Public Works does not agree that consultant fees of 14.02 percent far exceed the normal rate of a project the size and of the compost facility. The consultant fees covered not only the cost of engineering design and construction management, but also cost for project planning, review and selection of available technologies to help meet the state mandated diversion rate, and environmental review and development of the plans and specification.
7) The Department of Public Works partially disagrees that the layout of the receiving/scales station, recycling area and solid waste entrance could have been engineered more effectively. The layout design was engineered within the existing physical constraints of the space available at the landfill. Specifically, these improvements could not be placed on top of buried waste in the landfill.

8) The Department of Public Works does not agree that there are territorial issues between the Mariposa County Road Division and the Solid Waste Division. Both divisions are part of the Department of Public Works and report to the Director. These two divisions do have different responsibilities and priorities.

9) Public Works agrees that the compost facility was touted to extend the life of the landfill 20-30 years from the year 2000. Currently, the remaining life of the landfill is projected at approximately 13 years.

10) The Delaware North Corporation contract with the County of Mariposa fixed their disposal fee at $64.00 through September 30, 2003. The contract then allowed for annual increases based on the Consumer Price Index (CPI) through September 30, 2008. Public Works believes that all contracts should include a clause that allows the County to pass on any fee increases to contracts with other agencies and organizations.

11) The Department of Public Works disagrees that the Compost project was poorly managed from its inception in 2006. The Compost Facility was a very complicated project that required years of planning and engineering. While it is easy to second guess past decisions, Public Works believes that this project was developed and implemented in a professional manner consistent with County policies and procedures. However, current Public Works goal is to operate the Compost Facility as efficiently as possible as part of the County’s overall solid waste program.

Recommendations

The Department of Public Works has hired a part-time Office Technician to assist in improving and expanding recycling opportunities and programs within the County of Mariposa. This position is responsible for preparing articles for local newspapers, flyers and handouts explaining the benefits of recycling and encouraging individuals to recycle. This position is also responsible for working with local schools to encourage educational programs expounding the benefits and need for recycling. The Department of Public Works will continue to work with local schools to provide opportunities for field trips and tours of the Mariposa Solid Waste and Composting Facility.

The County gate attendants are trained to calculate disposal quantities on a consistent basis. In addition, a new scale was installed in 2006 allowing for all loads to be accurately weighed.

The County of Mariposa does hold consultants responsible for the accuracy of their work. The consultant who prepared the waste characterization study followed the appropriate protocols and procedures when conducting the study. The issue with the waste characterization is not its inaccuracy, but that the municipal solid waste stream into landfill has change substantially since the waste characterization was completed.

The Department of Public Works would like to see the $3,000 purchased order limit increased to at least $5,000 to account cost increases since the limit was originally established by the Board.

The Mariposa County Department of Public Works Road Division and Solid Waste Division do work as a team. While these divisions have different responsibilities and priorities, they both are managed by the director of Public Works who is responsible for ensuring that all divisions of the Public Works Department work as a team to complete the objectives and goals of the Department. The Department of
Public Works also works closely with Cal Fire and the California Department of Corrections crews who regularly assist the Department in brush, tree, and weed removal at County facilities.

The Compost Facility was designed to produce material for use as alternative daily cover for the landfill. The Department of Public Works believes that it would be prudent to resolve some of the issues regarding the efficient processing of waste material through the facility before making costly modifications to produce a saleable compost material. In addition, a thorough evaluation of benefits and liabilities of producing saleable compost material should be completed prior to developing plans to modify the facility.

The Department of Public Works is constantly striving to answer all citizen requests as promptly as possible.

The Department of Public Works will recommend that all contracts have a clause allowing the County pass thru any cost increases to the hauler.

The Local Task Force will be reviewing various programs to encourage recycling including the possibility of some form of mandatory recycling.

Chapter 8.36, Solid Waste Disposal establishes regulations governing the disposal of solid waste. This section of the County Code states “It shall be unlawful for any person to dispose of garbage or refuse except in (1) an authorized solid waste container; (2) appropriate and serviced storage containers; or (3) in other areas designated for disposal of solid waste.” Occupants of large tracts of land such as ranches are allowed to dispose of waste generated on their property in a manner approved by the health department.

The Department of Public Works is evaluating a number of recycling options including a commingling recycling program. This department believes that acceptance of commingling recyclables may encourage more residents of Mariposa County to recycle.

The Department of Public Works has developed short and long range plans for waste disposal in Mariposa County. The department has retained a consultant to assist with the state mandated five year permit review process.

The Department of Public Works will consider the feasibility of changing the landfill site sign to “Waste and Recycling Center”.

The Department of Public Works appreciates the opportunity to respond to the 2007-2008 Grand Jury report. The department agrees with the findings and recommendations of the Grand Jury that pertain to Public Works. If any additional information or clarification is required, please do not hesitate to contact me.

Sincerely,

Dana S. Herffelder, PE
Public Works Director

cc: Rick Benson, CAO
    Board of Supervisors
    Tom Guarino, County Counsel
January 28, 2008

Mariposa County Superior Court
Honorable F. Dana Walton
Assistant Presiding Judge of the Superior Court
P.O. Box 28
Mariposa, CA 95338

Re: Response to Mariposa County 2007-2008 Grand Jury Final Report #1

I am in receipt of the 2007-2008 Mariposa County Grand Jury Final Report #1. Pursuant to Penal Code 933.05(b) this shall serve as a response to the Grand Jury’s recommendations regarding the Adult Detention Facility and the Animal Control Facility.

Having reviewed the findings, recommendations and conclusions of the 2007-2008 Final Report #1, I wish to express my concurrence with the Grand Jury’s findings and recommendations.

The escalating cost of providing medical services to inmates is an industry wide concern. Alternatives are being explored at both the local and State level, however the state mandates placed upon correctional facilities greatly limits the number of viable options that are available to local detention facilities. Facility staff and medical personnel will continue to make every effort to reduce costs wherever possible, while still meeting the standards of care required under Title 15.

The facilities and equipment utilized by the Sheriff’s Office are in use twenty-four hours a day, seven days a week. Because of this continual usage, the usable life span of the facilities and equipment is shorter than what would normally be expected. A great deal of time and effort are expended by sheriff’s office staff to ensure that existing equipment is well cared for and properly
maintained. Despite our best efforts to extend the usability of equipment and facilities, we acknowledge the need for replacement and/or repair of several items, especially within the correctional facility. The cost for replacement and/or repair of these items will be substantial but necessary. I join the members of the Grand Jury in urging the Board of Supervisors to provide funding for the replacement of equipment that is essential for the safe operation of the correctional facility.

I would like to thank the Grand Jury members for their recognition of the needs within the Animal Control Division. With the Animal Control staff handling over 2,170 calls for service in 2007, the demand for services often exceeds the ability of staff to meet those needs. Although the current State and local budgetary outlook is bleak, I will be asking the county for a Kennel Technician position in next year's budget. The addition of one full time Kennel Technician would greatly enhance the ability of the Animal Control Division to keep pace with current call loads and would allow the Animal Control Officers to remain on patrol full time.

Finally, I wish to express my appreciation to the Grand Jury members for their willingness to serve our community in such a vital advisory role. Their sacrifice of time and self is recognized and valued by all of us.

Respectfully Submitted,

Brian E. Muller, Sheriff/Coroner/Public Administrator
February 5, 2008

Honorable F. Dana Walton
Mariposa County Superior Court
P.O. Box 28
Mariposa, CA 95338

Re: Interim Response/Comment to Grand Jury, Final Report #1

Dear Judge Walton:

I have in hand and have reviewed the 2007-2008 Mariposa County Grand Jury Final Report #1. It is my understanding that this report has been submitted to me for comment pursuant to Penal Code section 953 (a). It is also my understanding from reviewing the Foreperson's cover letter to you that there are "two specific reports that need immediate attention to those areas addressed". In reviewing the report there is one request for an investigation by my office within 30 days. I have also copied the Grand Jury with this response as they asked for a direct response from me. Accordingly, I am providing this interim response to address certain concerns and restrictions on the Office of County Counsel with respect to the requested activity. Additionally, pursuant to Penal Code section 953 (a), it is respectfully requested that the Foreperson or his designee clarify the second report that needs immediate attention if it is an activity or recommendation for the Office of County Counsel.

Authority of County Counsel

While I am pleased that the Grand Jury has expressed the confidence and trust in the Office of County Counsel to conduct an investigation in such a matter, it is my concern that I am without authority to conduct such an investigation. In part, this is due to the statutory provisions governing whom the County Counsel serves and in what capacity and limitations on investigatory powers for the type of investigation requested.

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1 Penal Code section 953 (a) provides in part, "a final report may be submitted for comment to responsible officers, agencies, or departments....."  
2 Penal Code section 953 (a) also provides in part, "For 45 days after the end of the term, but more person and his or her designee shall, upon reasonable notice, be available to clarify the recommendations of the report."
Pursuant to the Government Code, County Counsel serves as the legal adviser to the Board of Supervisors. County Counsel also serves as legal adviser to various County departments, agencies and commissions, as well as special districts and advisory agencies of the County. The office is also responsible for the daily transactional work in support of County departments, as well as the processing of contracts, agreements and other Board items requiring legal review. In addition, the Mariposa County Code identifies when the County Counsel may act as an investigator. While County Counsel does serve as a legal adviser to the Grand Jury I have been unable to locate any authority or practice by which the County Counsel would serve as an investigator for the Grand Jury. It is also my thought that because the Government Code and the County Code both describe the scope of duties of the County Counsel and specifically reference investigations of this nature as being done for the Board of Supervisors that it would not be legally appropriate for me to conduct such an investigation.

Scope of Investigation

Respectfully, given the scope of what is requested and the type of information that would have to be obtained and concern it would violate the Penal Code provisions regarding evidence provided to the Grand Jury it does not appear that the investigation as a practical matter could be done within existing statutory constraints and secrecy concerns.

The specific request of the Grand Jury is, "In regards to the missing data from the June 10, 2003 tapes, we recommend that the County Counsel investigate and report to the Superior Court and Grand Jury their findings within 30 days".

It is unclear from the request whether the Grand Jury desires an inquiry into "whether there was an intent to delete portions" of the tape, or to look into whether there was in fact missing data. In any event, such an investigation requires speaking to the same witnesses, reviewing the Grand Jury evidence in the form of the tape obtained from a Grand Jury witness, and interviewing various current and former Board of Supervisors members and County employees. The scope of this investigation raises several legal issues, including those of Grand Jury confidentiality and secrecy and my statutory obligations to serve as counsel to the Board of Supervisors as set forth above. With respect to the Board of Supervisors is my thought that it is

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2 Government code section 26526

3 These departments, agencies and commissions include but are not limited to The Planning Department, Public Works, Sheriff Department, County Assessor, County Auditor, County Building Department, and Planning Department, County Probation, County Human Services, Service As Counsel to the Public Guardian and Public Conservator, County Fire Department, the Planning Commission, County Water Agency, Several Special Districts including Yosemite West Maintenance District, Vehicle Parking District Number One, Don Pedro I M. Countywide Service Area #1, and Various I.P.A.'S Such As YARTE, Area 12 Agency on Aging, and Special Commissions and Agencies Such As First Five of Mariposa County and Mountain Valley EMS.

4 Mariposa County Code Section 2.12.040 which states in part, "act as investigator in difficult cases for the board". County Counsel does regularly conduct as necessary investigations in connection with litigation matters, risk management and personnel matters and other legal matters within the scope of job duties. However, these investigations are not for third parties.
The case of Daily Journal Corporation v. the Superior Court of Orange County is instructive in reviewing the limitations on the disclosure of evidence and witness testimony obtained by a grand jury. While in the context of a criminal proceeding the reasoning is instructive, and I believe applicable to the current matter. As the Supreme Court stated in part:

"...a superior court may order public sessions of the grand jury when it involves matters affecting the public welfare. Otherwise, grand jury proceedings are conducted in secrecy. (Pen. Code, § 915 [grand jury "shall retire to a private room" to conduct inquiry into offenses].) Unless requested by the grand jury, "the judge of the court . . . shall not be present during the sessions of the grand jury." (Id., § 934.) Apart from necessary and authorized appearances, as specified by statute, no person is permitted to be present during criminal sessions of the grand jury except the members and witnesses actually under examination. (Id., § 939.) Deliberations of the grand jury are completely private; no person other than the grand jurors themselves may be present during "the expression of the opinions of the grand jurors, or the giving of their votes" on any criminal matter before them. (Ibid.)

Grand jurors must take an oath that they "will not disclose any evidence brought before the grand jury, or anything which [they] or any other grand juror may say, nor the manner in which [they] or any other grand juror may have voted on any matter before the grand jury." (Pen. Code, § 911.) A grand juror who willfully discloses the fact of an information or indictment before the defendant has been arrested is guilty of a misdemeanor. (Id., § 924.) Unless required by the court, grand jurors are not permitted to disclose any evidence adduced before the grand jury or anything said by a member of the grand jury. (Id., § 924., subd. (a).) Moreover, each grand juror "shall keep secret" the deliberations and voting of the grand jury. (Id., [1123] § 924.2.) A grand juror may not be questioned about any deliberations or vote relative to a matter pending before the grand jury, "except for a perjury of which he may have been guilty in making an accusation or giving testimony to his fellow jurors." (Id., § 924.3.)

It would appear that such confidentiality and secrecy provisions would be equally applicable to an investigation such as that suggested here. Therefore, it is my thought that the Grand Jury would likely be prohibited from disclosing the tape obtained from a witness. The tape at issue would be essential to determine what if any information was missing. In addition, the witness testimony with respect to the tape, when it was recorded, how it was recorded, if it included portions of the Board session that was during a recess or adjournment would all be essential to any investigation. This would also involve speaking with witnesses for whom I

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6 Well-known standards of professional conduct, ethics and requirements of professional responsibility prohibit an attorney from acting adverse to his client. Government Code 26326.

provide legal advice in other areas and work with regularly and therefore would likely constitute a conflict for which I would excuse myself from participation in the investigation. 9

Accordingly, it is my conclusion that the Penal Code provisions with respect to grand jury evidence and witness testimony would make it difficult if not impossible to complete such an investigation. Therefore pursuant to Penal Code Section 953.05 (a) (2) and (4). County Counsel respectfully disagrees with the recommendation and is unable to undertake the recommended investigation for the Grand Jury and report the results thereof to the Grand Jury and Superior Court.

Master Gardener Issue

It is unclear from the referral in the report whether this is one of the two issues for which immediate action is considered necessary. If it is then the response below sets forth the reasons why the recommendation would not be appropriate. I would of course be amenable receiving any clarification of the recommendation under Penal Code section 953 (a).

The specific request is that when any citizen questions the legality of anything with respect to the County that a written opinion be issued to a third party. This request would be in conflict with the job duties of County Counsel as described above. County Counsel serves the Board of Supervisors and County departments and accordingly would be prohibited from undertaking to do legal work for the general public especially in light of the fact that such legal work may involve matters which would create a liability for the County. If as suggested such reports were prepared and everything was legal and the citizen was so informed, this would leave open a clear indication that if such a response was not provided that an illegal act may have occurred exposing the County to litigation, which could result in significant expenditures of County funds, which would otherwise be available for conducting the business of the County. Additionally, issues raised by the public often involve matters which are protected by privacy laws, rules of confidentiality, collective bargaining issues, negotiations and other matters, the disclosure of which would be illegal as a matter of law or seriously harm the ability of the County to negotiate in the public's best interest.

Certainly, when matters come to the attention of County Counsel that create a risk for the County or indicate that the County is not acting in an appropriate manner efforts should be undertaken by the appropriate authority to discontinue the inappropriate activity or undertake corrections which put the activity on a legal footing. Independently, except for matters involving the day-to-day operations of the County Counsel's Department, the authority to change County policy, resolutions, ordinances or other such actions rest with the Board of Supervisors and accordingly County Counsel could not simply "fix it". Please be re-assured that when matters

9 And additional difficulty any such investigation would be my personal knowledge of the Clerk of the Board for whom I hold the highest regard and respect for her professionalism and integrity. I have to work with this person on a daily basis and do not feel that I would be the appropriate person to investigate her activities, which is a clear implication of the investigation demanded.
are brought to my attention that a process or procedure of the County needs to be revised to remain in compliance with the law it is taken seriously.

Much of the work of a county counsel or any attorney is considered privileged as a matter of law. The holder of this privilege is the County in the form of the Board of Supervisors. This is of course well-known to the Court and no disrespect is intended by mentioning this basis for not putting into effect the suggested recommendation. Rather, the intention is to clearly identify for the record why County Counsel is prohibited by law from complying with the disclosure requested in the recommendation. Therefore, when County Counsel does not directly respond to a member of the public with respect to a legal issue raised it is not an intention to be discourteous, rather it is because a response from the attorney for the County would be inappropriate at the time. It is a specific statutory obligation under the rules of professional conduct for an attorney to "maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets of his or her client". Business and Professions Code Section 6068 (e).

Therefore, pursuant to Penal Code section 923.05 subsections (a), (2) and (4) County Counsel respectfully disagrees with the requested action and for the reasons stated above will be unable as a matter of law to implement the request.

Consultant Issue

At page 2 of the report, there is a reference to information from a consultant and absence of information regarding a legal action. Based upon the report, it appears each matter occurred

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10 This privilege (Evidence Code 964) is well recognized in several areas and is expressly acknowledged in the Brown Act in the Public Records Act as an exception to public disclosure of information, in two statutes specifically addressing public access to information. See Government Code Sections 54956.9 and 6254. See Also Roberts v City of Palmade (1993) 5 Cal.4th 365. The unanimous Supreme Court reversed the judgment of the Court of Appeal. Holding "that the Public Records Act (Gov Code, § 6250 et seq.) did not require public disclosure of the letter from the city attorney distributed to members of the city council, expressing the legal opinion of the city attorney regarding a matter pending before the council, since the letter was privileged under the attorney-client privilege. It also held that the transmission of the written legal opinion was not a meeting within the terms of the Brown Act (Gov Code, § 54956 et seq.). It further held that a 1987 amendment to § 54956.9 of the Brown Act was not intended to abrogate the attorney-client privilege as it applies to the communication of written legal advice by a city attorney to the individual members of a city council." and "The Public Records Act (Gov Code, § 6250 et seq.) did not require disclosure of a letter a city attorney prepared for the city council, in which the attorney expressed legal opinions concerning a resident's pending appeal of a parcel map. Although the letter was a "public record" within the meaning of the Act, it was a confidential communication within the attorney-client privilege. Further, Gov Code, § 6254 made (b), which exempts from disclosure records pertaining to pending litigation until the litigation is terminated, does not operate to limit the scope of the attorney-client privilege to matters pertaining to pending litigation. This subdivision pertains to all public records, but does not address the privilege. Gov Code, § 6254, made (b), expressly exempts from disclosure matters privileged under the Evidence Code. This includes the attorney-client privilege. Thus, the city could assert the privilege without the necessity of alleging that the letter was a document pertaining to pending litigation."
in 2003 or earlier. These issues predate my tenure as County Counsel and therefore I am unable to comment with respect to what County Counsel at the time may have reviewed or considered. In any event, as noted above, such report would have likely been subject to the attorney-client privilege and not disclosable.

It does not appear that this matter was part of a recommendation for any action. Usually, when such issues arise, the department, which is involved in administering the contract, will make a referral to County Counsel for legal review. If it involves a matter for which an action should be initiated an appropriate referral to the Board of Supervisors, usually in the context of a closed session, will be undertaken to determine if the Board of Supervisors feels it is in the best interest of the County to initiate such an action. It is entirely likely any such legal analysis of a potential litigation matter would not be in records provided to anyone but the Board of Supervisors, the client; as such a report would be confidential under the attorney/client privilege.

I simply mention this matter in an abundance of caution due to the lack of certainty with respect to the other "report" that needed "immediate" action.

**Interim Response Comment**

Because of the short time in which action was requested this interim response and comment has been provided so that the Grand Jury will have an opportunity to consider if they want to undertake any other efforts with respect to its own investigations in this matter. As I indicated to the Grand Jury in writing before the current session and as I have with each Grand Jury, County Counsel stands ready to assist the Grand Jury with any legal questions they may have and would respectfully call to the attention of the Grand Jury its obligation to meet with any subject of an investigation and obligation to provide an affected agency a copy of the Grand Jury report relating to that person or entity a minimum of two days prior to its public release. Penal Code Sections 933 (e) and (f).

Respectfully submitted,

[Signature]

Thomas P. Guarino
County Counsel

cc: Board of Supervisors
Rick Benson, County Administrative Officer
Dana Herfelder, Public Works Director
Marvin Wells, Grand Jury Foreperson
Margie Williams, Clerk of the Board
February 7, 2008

The Honorable F. Dana Walton
Assistant Presiding Judge of the Superior Court
5088 Bullion Street
Post Office Box 28
Mariposa, CA 95338

Sir:

I agree with the findings of the 2007-2008 Grand Jury Final Report #1 regarding the Master Gardener Program for Mariposa County.

Sincerely,

[Signature]

Karen L. Robb, Ph.D.
County Director/Farm Advisor

C: Mariposa County Board of Supervisors
   Lyle Turpin, Chair, District 2
   Brad Aborn, District 1
   Janet Bibby, District 3
   Dianne Fritz, District 4
   Bob Pickard, District 5
July 24, 2008

Honorable F. Dana Walton  
Assistant Presiding Judge, Superior Court  
County of Mariposa County  
Post Office Box 28  
Mariposa, CA 95338

Dear Judge Walton:

The purpose of this letter is to respond to the Final Report of the Mariposa County Grand Jury, 2007-2008. The Grand Jury Report, on page 12, states:

**Mariposa Planning Department**

On November 13, 2007 the Grand Jury received a complaint directed at the Mariposa Planning Department. Due to the complainant not giving their name, address, telephone number, and not signing their complaint form as is required, we had no option but deem that no action be taken.

On page 16 of the Final Report, it further states:

**Planning Department Complaint**

On 12/03/07, the grand jury received a complaint regarding the Mariposa County Planning Department. We found this complaint to be unfounded, giving us no cause to investigate.

As the Planning Director for Mariposa County, I agree with and support the findings of the Grand Jury. Mariposa Planning is pleased that the Grand Jury has exercised its statutory responsibilities to evaluate complaints involving this department and that the Grand Jury has been able to investigate and resolve these matters on an objective basis.

I appreciate the effort and research that member’s of the Grand Jury have invested in this year’s report.

Sincerely,

Kris Schenk  
Planning Director

Our Mission is to provide our clients with professional service and accurate information in a respectful, courteous, and enthusiastic manner resulting in a well-planned rural environment.
July 10, 2008

The Honorable F. Dana Walton, Presiding Judge
Mariposa Superior Court
5088 Bullion Street, P.O. Box 28
Mariposa, CA 95338

Dear Mr. Walton:

Following are my responses to the findings and recommendations of the Mariposa County Audit and Finance Report located on page thirteen of the Grand Jury Report for 2007-08.

Findings

I agree with each of the findings listed.

Recommendations

Item 1: The recommendation has not yet been implemented. This recommendation is not completely within my control. This is a decision to be made by the Board of Supervisors. The Auditor could give an opinion on the affordability of a project but one must keep in mind that the Auditor does not have the authority to commit current or future resources of the county. The affordability of a project is associated with the other services the county provides that compete for the limited funds the county has available each year. The feasibility of a project could possibly be outside the scope of the Auditor’s expertise. For example, a project may involve technical specifications that an engineer would need to analyze to determine if the project was workable or not.

Item 2: The recommendation has not yet been implemented. Quite a few years ago the county did contract with an independent audit firm to audit certain establishments for transient occupancy tax (TOT). There were audits in 1986 and also for the years 1999, 2000 and 2001. In addition, the Tax Collector is active in monitoring and performing less formal audits of establishments paying this tax. During my meeting with the Grand Jury I indicated that the Auditor’s Office has not performed audits of the TOT to my knowledge which may have provided the impetus for the recommendation. With our present staff, this office has difficulty preparing for the annual audit each year. Our work cycle is full. Mariposa County does not have an internal audit department common to many larger counties.
Sincerely,

Christopher Ebie
Mariposa County Auditor-Controller

Cc: Mariposa County Board of Supervisors
August 18, 2008

Honorable F. Dana Walton
Mariposa County Superior Court
5088 Bullion Street
Post Office Box 28
Mariposa, California 95338


Dear Judge Walton:

Pursuant to Penal Code Section 933.05, the following response to the findings and recommendations of the 2007-2008 Mariposa County Grand Jury that pertain to the Office of the Mariposa County District Attorney is submitted.

I appreciate the findings and recommendations of the Grand Jury as they pertain to my Department. I would thank them for the thoroughness and candor they exhibited when they examined the operations of the District Attorney’s Office.

I agree with the findings of the Grand Jury. I also agree with and support the recommendations, all of which require action by the Board of Supervisors.

Specifically:

- The grand jury recommends that Mariposa County meet the needs of the staffing of the District Attorney’s Office and be more competitive with a salary grade table based on job responsibilities.

There has been partial implantation of this recommendation when the Board authorized two additional positions at the 2008 mid-year budget review. These two positions, a Deputy District Attorney and a Legal Secretary, have been filled. Two additional positions, a DA Investigator and a Victim Advocate were also requested and denied. These positions are still needed and I have asked for them to be authorized in the 2008-2009 budget.

Through the bargaining process most of the staff received equity increases in salary and are now more competitive but this process needs to continue.
The one management position, other than the DA, that did not receive an equity increase is that of the Office Manager and I have requested a reclassification of that position, to correct this inequity, in the 2008-2009 budget.

- Mariposa County to purchase two vehicles for the District Attorney's Office.

I have requested on additional vehicle in the 2008-2009 budget.

- The grand jury recommends that Mariposa County provide adequate office space for the District Attorney's Office staff and all their records, (i.e. Consider implementation of an automated computerized filing system, in an effort to save space.).

I have proposed leasing the property at 4975 9th Street, which is currently available, below market value, for $400.00 per month. This would provide this office with growth potential and free-up the building that presently houses the Victim/Witness office to be used as a witness waiting area in lieu of the DA's room in the Courthouse.

I intend to ensure that the next copier, leased by the county, has a scanning capability as a step towards having “scanned files” instead of “paper files”.

There are indications that there will be budget cuts in the 2008-2009 County Budget. Such cuts would place all of these recommendations in jeopardy and would have an adverse effect on this office’s ability to carry out our public safety responsibilities.

If the anticipated budget cuts become reality, I intend to ask the Board of Supervisors to set a high priority on public safety in order for this office, along with the other law enforcement organizations, to maintain the high standards of protecting the public that we have set.

Sincerely,

ROBERT H. BROWN
District Attorney

RHB:b

cc: Board of Supervisors
    Mary Hodson, Deputy CAO
July 9, 2008

Mariposa County Superior Court
Honorable F. Dana Walton, Presiding Judge
P.O. Box 28
Mariposa, CA 95338


I am in receipt of the 2007-08 Mariposa Grand Jury Report. Pursuant to Penal Code 933.05 (b) (4) (f), This shall serve as a response to the Grand Jury’s findings regarding January 28, 2008 complaint.

I would like to thank the Grand Jury Members for their dedication and diligence in serving our community. I am proud of the professionalism and level of service to the public my Office has exhibited and is substantiated by this report.

Respectfully submitted,

Becky Crafts, Assessor-Recorder

Cc: Mariposa County Board of Supervisors
The Honorable F. Dana Walton  
Assistant Presiding Judge  
Mariposa Superior Court  
5088 Bullion Street  
Mariposa, CA 95338


Dear Honorable Judge Walton:

Following is the Public Works Department’s response to the 2007-2008 Mariposa County Grand Jury North County Report.

**Coulterville**

**Findings**

The Department of Public Works agrees that there was a well pump failure that caused the amount of water in the storage tank to drop below three feet. The Department of Public Works did use contingency funds to offset increases in operation cost and that water rates were increased 100% in three (3) increments over two years.

**Well House, Water Pump and Water Storage Tank:** There is only one well that supplies water to the Coulterville system. The water is pumped to the storage tank and then supplied to the community using gravity flow.

**Solid Waste and Recycling Center:** The Coulterville Solid Waste Transfer Station is used by the residents of Coulterville and Greeley Hill. The current per bag fee is $3.00 and the County does not pay for recyclable products. All recyclables collected at the transfer station are transported by Total Waste Systems to their Material Recovery Facility in Santa Rosa, California. All municipal Solid Waste is transported by Total Waste Systems to the County Solid Waste Facility for processing and disposal.

**Recommendation**

The Department of Public Works agrees that a backup well with pump and a new water storage tank should be added to the Coulterville community water system. The Department is reviewing
possible grants for this work because the district does not have sufficient funds to cover the cost of these improvements.

**Lake Don Pedro**

**Findings**

**Maintenance Yard/Recycling Center:** The Don Pedro Transfer Station is designed similar to the Coulterville Transfer Station with the exception that it accepts used motor oil.

**Sewer/Wastewater Treatment:** The new wastewater treatment facility has been constructed and is in operation. The County has opened discussions with the Don Pedro Community Services District (CSD) regarding the possibility of the CSD managing and operating the facility.

**Greeley Hill**

**Findings**

**Red Cloud Library Site:** Construction of the Red Cloud Library should be completed by November 2008.

**Recommendation** None

**Findings:**

**Park:** The Department of Public Works, Facilities Division has done an outstanding job of maintaining the Red Cloud Park.

**Recommendation**

The park and park facilities will continue to be maintained at the high standard that they were found in by the Grand Jury and will remain open and accessible to the public.

**Findings**

**Roads:** The Department of Public Works agrees that many of the County-maintained roads are in dire need of repairs and resurfacing.

**Recommendation**

The Department of Public Works agrees that all County roads should be brought up to current County standards. However, due to the high cost, lack of right-of-way and terrain, the Department of Public Works does not believe that this is practical. This opinion is shared by the American Association of State Highway and Transportation Officials 2004 Policy on Geometric Design of Highways and Streets. The Department of Public Works has contracted with a pavement management firm to evaluate and rank the condition of paved County-maintained roads. This information will be used along with safety data and traffic counts to establish a road maintenance priority list.
Findings

Transfer Station: The Coulterville Transfer Station is open three (3) days a week; Friday, Saturday and Sunday.

Recommendation

The Department of Public Works disagrees with the Grand Jury's finding that the Coulterville Transfer Station should be open more frequently. Based on a review of the transfer station operations the Department believes that the County should reduce the number of hours that the facility is open.

The Department of Public Works appreciates the opportunity to respond to the 2007-2008 Grand Jury North County report. The Department agrees with most of the findings and recommendations of the Grand Jury that pertain to Public Works. If any additional information or clarification is requires, please do not hesitate to contact me.

Sincerely,

[Signature]

Dana S. Hertfelder, PE
Public Works Director

cc: Rick Benson, CAO
    Board of Supervisors
    Tom Guarino, County Counsel
August 11, 2008

Honorable F. Dana Walton
Superior Court of the State of California
PO Box 28
Mariposa, CA 95338

Re: Response to 2007-2008 Grand Jury Report

Honorable Judge Walton,

For the purposes of subdivision (b) of Section 933 the respondent agrees with the Grand Jury finding(s).

As to the recommendations:

1. Coulterville fire apparatus: County Service Area 3 (CSA 3) has been approved by the voters and formed by resolution by Mariposa County Board of Supervisors. Within one year a new fire engine and renovated water tender will go into service in the Coulterville fire station.

2. Lake Don Pedro fire apparatus: County Service Area 3 has been approved by the voters and formed by resolution by Mariposa County Board of Supervisors. Within one year a new fire engine will go into service in the Don Pedro fire station.

3. Greeley Hill fire apparatus and fire station: County Service Area 3 has been approved by the voters and formed by resolution by Mariposa County Board of Supervisors. Within one year a new fire engine will go into service in the Greeley Hill fire station. A newly renovated water tender was recently placed in service to serve the Greeley Hill community. A Capital Improvement Plan providing for remodel or replacement of fire stations has been presented to the Board of Supervisors. Funding from CSA 3 will assist in upgrading County fire stations.

Sincerely,

Jim Wilson
Fire Chief
August 4, 2008

Honorable F. Dana Walton
Assistant Presiding Judge
Mariposa County Superior Court
Post Office Box 28
Mariposa, California 95338

RE: Mariposa County 2007-2008 Grand Jury Final Report

Dear Judge Walton:

Enclosed is the Mariposa County Administration response to the Mariposa County 2007-2008 Grand Jury Final Report. I wish to thank the members of the 2007-2008 Mariposa County Grand Jury for their diligence and effort in fulfilling their responsibility. Please contact me if you have any questions or desire additional information.

Sincerely,

Richard J. Benson
County Administrative Officer

mbh
Enclosure
Findings:

- The County Administrative is appreciative of the Grand Jury acknowledging that staff strives to provide courteous service and sufficient answers to questions concerning county government.

- The Personnel function is a division of County Administration, and staff follows applicable federal, state, and local employment and hiring practices.

- Salaries and titles of county positions are included in the county budget and are also available upon request. The pay scale of Department Heads is based upon a percentage of the County Administrative Officer’s salary. County employee salaries are negotiated with the appropriate unions and included in the respective Memorandums of Understanding (MOU).

- The salaries of Department Heads are not comparable with surrounding counties due to different budgetary constraints and the cost of living in that particular area. Staff endeavors to maintain internal salary equity among Department Heads within the County based upon their responsibilities. Staff recognizes that at times there have been difficulties in attracting qualified applicants for certain management positions. In these instances adjustments to certain Department Head salaries have been recommended to the Board of Supervisors in order to attract applicants. It should be noted that salaries of Department Heads and management positions must also be balanced with meeting the financial costs of providing essential services to the constituents of Mariposa County.

- A reorganization of the Public Works Department became effective January 1, 2006, by reclassifying one of the Deputy Director positions to a Public Works Administrator position to assist with budgetary and personnel matters. An Administrative Analyst was also added effective January 1, 2006, to assist in management responsibilities. Administrative/Personnel staff will consult with the Public Works Director to determine if another reorganization is necessary.

Recommendations:

- The Mariposa County Directory is distributed annually to all county offices. The directory changes monthly with new hires and resignations/terminations/retirements. Staff updates the directory on a weekly basis and will assess the possibility of electronically mailing the updated directory to county departments on a monthly basis. If feasible, the monthly updates will be implemented in February 2009.

- Staff does not believe it is practical to post a County Directory and all of the organization charts of county departments in the main entrance of the
Administration Office. During normal business hours receptionists are available in County Administration to direct people to the appropriate department. Organization charts of each County Department will be included in the Final Budget and available upon request.

- Staff is unsure of what specific Policies and Procedures the report is referencing. There are a myriad of Federal, State, and local policies and procedures and several departments have internal policies/procedures that are specific to that department. Newly adopted county policies/procedures are distributed to each department by the Clerk of the Board. Ordinances that govern county procedures are copied to each department when updated and are also available on County Counsel’s website. Each county Department Head is entrusted with the responsibility of managing their department within the guidelines set by applicable Federal, State, and local laws, policies, procedures, and guidelines. The County does not have a formal “county manual” as each department may be governed by specific Federal, State, or other local ordinances, policies, and procedures which will vary between departments. Conducting an annual audit does not seem a prudent use of time and therefore Administration does not agree with this recommendation.

- The Administrative department will investigate the possibility of developing a process to collect ideas and suggestions from county employees on ways to improve working conditions and improve productivity. If feasible, the process will be reviewed by the Board of Supervisors and if approved, implemented by June 2009.

- The County is currently recruiting for an Assistant Public Works Director – Operations.
July 14, 2008

Honorable F. Dana Walton
Assistant Presiding Judge of the Superior Court
County of Mariposa
PO Box 28
Mariposa, CA 95338

Dear Judge Walton:

We have received and reviewed the references to the Human Services Department in the current Grand Jury report. A copy of our response is attached (Attachment I). An informational copy of this response has also been forwarded to the Mariposa County Board of Supervisors.

Sincerely,

[Signature]
James A. Rydingsword
Director

cc: Mariposa County Board of Supervisors

Enclosures: Attachments I, II
Child Abuse Mandated Reporter Complaints

The Mariposa County Grand Jury received a complaint on September 18, 2007, of a failure to report child abuse by a mandated reporter and the failure of the supervisor of the mandated reporter to reprimand their staff member.

Findings

- This complaint went through the circuit of the Mariposa County Child Protective Services, Mariposa County District Attorney, Mariposa County Sheriff Department, Mariposa County Human Services, and to the Mariposa County Grand Jury.
- The grand jury review found certain officials not living up to their mandated reporter duties.
- According to a letter dated November 15, 2007 from Mariposa County Human Services Department to the complainant, it was stated that, "We also reviewed your concerns with County Counsel and have been visited by members of the Grand Jury who spent some time discussing Departmental policy and procedures involving reports of child abuse." This department could not have known all of the facts that the grand jury acquired. The grand jury did not discuss anything with any of the directors, or departmental personnel regarding this issue.
- It is evident to the grand jury that certain departmental personnel gave misinformation about the grand jury visits to several departments, which consequently broke their agreement with the grand jury not to speak to anyone of the content of their meeting with the jury. Two specific mandated reporters in two different departments did not carry out their duty.
- We found that the Mariposa County Sheriff's Department was in full compliance in their reporting duties in regards to this issue.
- Amongst the mandated reporters the grand jury interviewed, we found that the understanding/interpretation of their responsibilities as a mandated reporter varied greatly.
- In the course of our investigation, we spent approximately two hours with a member of the staff of the Mariposa County Child Protective Services. We were attempting to obtain the Policies and Procedures for that department. This person continually denied that Child Protective Services had a Policies and Procedures Manual. Immediately following this interview, we interviewed a second member of the staff, who was able to promptly provide us with the department’s Policies and Procedures, plus the updates, and answered all of our questions. The second time the grand jury interviewed this employee who had previously denied any knowledge of Policies and Procedures, they then acknowledged that the department did have the requested information.

Recommendations

- The Mariposa County Grand Jury recommends that the proper authorities direct an inquiry to see that correct disciplinary action be taken where necessary in those departments that were involved in this complaint.
  - Response: We disagree with the findings. Section 11166.05 of the California Penal Code states “a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated
reporter knows or reasonably suspects has been the victim of child abuse or neglect." In a review by the Human Services Director we could find no instance relating to this complaint in which a mandated reporter was not in compliance with the California Penal Code.

- The grand jury also recommends that all mandated reporters employed by Mariposa County, be required to take a course, (preferably from a state or outside-the-county certified training agency), covering their responsibilities as mandated reporters, along with an annual refresher course. This would provide a uniform understanding amongst all Mariposa County mandated reporters.

  o **Response:** We agree, in part, with this recommendation. Within the Human Services Department we will take steps in 2008-09 for mandated reporters within the Department to receive initial and annual refresher training on mandated reporter responsibilities. Outside of the Department, the list of mandated reporters is extensive and not under the jurisdiction of the Human Services Department. For your information, we are attaching a copy Section 11165.7 of the California Penal Code listing all mandated reporters. If the County of Mariposa Board of Supervisors wishes to implement mandated reporter training for all mandated reporters in the employ of the County, the Board can establish that policy. Even with a County policy in place, many mandated reporters are not under the jurisdiction of the County and each agency, whether public or private, would need to establish their own policy on mandated reporter training.
Mandated Reporters- Excerpts from California Penal Code SECTION 11164-11174.3

Who is a Mandated Reporter?

11165.7. (a) As used in this article, "mandated reporter" is defined as any of the following:

1) A teacher.

2) An instructional aide.

3) A teacher's aide or teacher's assistant employed by any public or private school. A classified employee of any public school.

4) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.

5) An administrator of a public or private day camp.

6) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.

7) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.

8) Any employee of a county office of education or the California Department of Education, whose duties bring the employee into contact with children on a regular basis.

9) A licensee, an administrator, or an employee of a licensed community care or child day care facility.

10) A Head Start program teacher.

11) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.

12) A public assistance worker.

13) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.

14) A social worker, probation officer, or parole officer.

15) An employee of a school district police or security department.

16) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

17) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.

18) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.

19) A firefighter, except for volunteer firefighters.

20) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the
(22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(24) A marriage, family, and child therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.

(25) An unlicensed marriage, family, and child therapist intern registered under Section 4980.44 of the Business and Professions Code.

(26) A state or county public health employee who treats a minor for venereal disease or any other condition.

(27) A coroner.

(28) A medical examiner, or any other person who performs autopsies.

(29) A commercial film and photographic print processor, as specified in subdivision (a) of Section 11166. As used in this article, "commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

(30) A child visitation monitor. As used in this article, "child visitation monitor" means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law.

(31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:

(a) "Animal control officer" means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(b) "Humane society officer" means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

(34) Any employee of any police department, county sheriff's department, county probation department, or county welfare department.

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the California Rules of Court.

(36) A custodial officer as defined in Section 831.5.

(37) Any person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.
Scope of Mandated reporter Training

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.
Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

When are Mandated Reporters required to report?

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.