RESOLUTION - ACTION REQUESTED 2012-421

MEETING: August 14, 2012

TO: The Board of Supervisors

FROM: Rick Benson, County Administrative Officer

RE: Board of Supervisor Comment to 2011-2012 Grand Jury

RECOMMENDATION AND JUSTIFICATION:
Approve the comments of the Board of Supervisors to the findings and recommendations contained in the 2011-2012 Mariposa County Grand Jury Final Report that were directed to the Board of Supervisors and authorize the Chairman to sign the cover letter for the comments. Penal Code §933.05 requires a comment within 60 days of the release of the Final Grand Jury Report to the Presiding Judge of the Mariposa County Superior Court on the findings and recommendations pertaining to matters under the control of the county agency.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board has authorized the Chairman to sign letters commenting on the findings and recommendations pertaining to the Board of Supervisors that were contained in the past Grand Jury Reports.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Make modifications to the letter and/or comments and authorize the Chairman to sign letter with amendment(s) to letter and/or comments.

Do not authorize the Chairman to sign the letter. The Board of Supervisors will be in violation of Penal Code §933.05 if a response is not sent to the Presiding Judge of the Mariposa County Superior Court by August 28, 2012.

ATTACHMENTS:
bos response 11-12  (DOC)
Grand Jury Complaint #5  (PDF)
bos comment letter 11-12  (DOC)

CAO RECOMMENDATION
Requested Action Recommended
Resolution - Action Requested 2012-421

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Jim Allen, District V Supervisor
SECONDER: Lyle Turpin, District II Supervisor
AYES: Stetson, Turpin, Bibby, Cann, Allen
Complaint 5

Date Received: September 20, 2011

Complaint
This complaint was received by the 2010-2011 Grand Jury on 3/11/2011. The complainant alleged that a use permit application for an approval of a church at 5180 Highway 140 was not acted upon and that complainant was owed $14,400 in lost revenue. Complaint included letters and emails back and forth between the complainant, the previous Grand Jury foreman, Mariposa Planning Department, the District IV Mariposa County Supervisor, and County Counsel.

Authority for Investigation
Penal Code, §925, §933.5

Assigned Committee
County Administration

Avenues of Investigation
1. Review of complainant documents
2. Phone interview with Planning Department Director
3. Site visit at the Planning Department

Findings
F 6/12/09: Complainant had a conversation with the Director of the Planning Department, who stated there would be no reason his request would not be granted and it would take about one week.

F 6/18/2009: On behalf of his client, the complainant requested from the Mariposa County Planning Department a determination for a compatible and allowable use of the property at 5180 Highway 140, for a church.

F 8/21/2009: Complainant had contacted the Planning Department by email and phone on numerous occasions. He was told that the person he needed to deal with was on vacation and the case had been given to another employee.

F 2/2010: Complainant reported that he was approached by a second potential client regarding renting the property at 5180 Highway 140. This client was turned away because property zoning had not been determined.

F 8/19/2010: Complainant sent an invoice for $12,600 to the Board of Supervisors and Mariposa Planning Department, claiming that the County was responsible for lost rent starting 7/1/2009.

F 8/21/2010: Complainant emailed the Board of Supervisors complaining that there was no action being taken by the Planning Department concerning his request.
Mariposa County Grand Jury Final Report

F 10/26/2010: Planning Department acknowledged, in a letter, complainant's invoice and requested it be sent to the Board of Supervisors. In the letter, they apologized for their late response.

F 10/29/2010: Complainant sent another invoice for $14,400 adding two more months of rent along with a complaint form to the Board of Supervisors.

F 11/3/2010: Complainant received a letter from County Counsel stating that complainant's claim was not presented within 6 months after the event and that no action would be taken.

F 11/16/2010: Complainant emailed his County Supervisor asking for help, claiming he had lost 2 clients because of the lack of action by the Planning Department.

F 11/16/2010: Complainant received a response from the County Supervisor stating he would help and that the response from County Counsel was unacceptable. Complainant requested a meeting with the County Supervisor. The grand jury does not know whether or not the requested meeting occurred with the County Supervisor.


F 5/20/2011: 2010-2011 Grand Jury Foreman acknowledged complaint in a letter to the complainant asking for more information as to what transpired between complainant and the County Supervisor. Grand Jury had insufficient time to respond to complaint, recommending that it be submitted to 2011-2012 Grand Jury.


F 1/6/2012: 2011-2012 Grand Jury members visited the Planning Department to discuss the complaint. It was the opinion of the Planning Department that because the complainant and his client received a Conditional Use Permit in the Mountain Home Zone area for the client's church, that the matter was no longer relevant. This permit was for a second property the client rented because the Planning Department never replied regarding the property at 5180 Highway 140. The Planning Department would continue developing their General Plan/Zone Amendment 2011-24 in which churches, among other types of structures, would be allowed in the Mariposa Town Planning Area Specific Plan.

Conclusions

C The Mariposa Planning Department received a valid request from the complainant regarding a zoning issue. Even with numerous follow-up contacts by the complainant, the department's personnel never responded within an acceptable time period. Due primarily to this department's inaction, the complainant lost two potential clients.

C The monetary claim by complainant has validity. Inaction by the Planning Department made the building offered by the complainant unrentable to his clients.
Recommendations

It is a necessity that the Planning Department reply in a timely and responsible manner to all requests for their services.
August 14, 2012

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

Dear Judge Walton:

Enclosed are the Board of Supervisors comments to the 2011-2012 Mariposa County Grand Jury Report that pertain to the Board of Supervisors. The Board of Supervisors wishes to acknowledge the hard work and dedication of the members of the Grand Jury in fulfilling their responsibilities. Please contact me if you have any questions or desire additional information.

Sincerely,

[Signature]

JANET BIBBY
Chairman

JB/mbh
Enclosure
This is in response to the findings contained in Complaint 5.

Findings:

- F-8/19/2010
  Staff partially disagrees with this finding. The Department has no record of the Board of Supervisors receiving an invoice from the complainant in the amount of $12,600. The Department has a copy of a letter from the Planning Department acknowledging receipt of the invoice for $12,600 and advising the complainant that the invoice needs to be submitted to the Board of Supervisors on the appropriate claim form.

- F-8/21/2010
  Staff cannot agree or disagree with this finding as individual emails to Board of Supervisor members are not filed.

- F-10/29/2010
  Staff agrees with this finding.

- F-11/3/2010
  Staff partially disagrees with this finding. The letter was from the County Administrative Officer, not County Counsel.

- F-11/16/2010
  Staff agrees with this finding.

- F-11/16/10
  Staff partially agrees with this finding. The County Supervisor responded to the complainant and stated he would look into the matter. Staff does not believe the statement attributed to the County Supervisor regarding the comment that the “... response from County Counsel was unacceptable” is accurate. The response was from the County Administrative Officer per the November 16, 2010, email from the complainant. The County Supervisor did contact the Planning Director and received assurances that there was a straightforward fix for the complainant’s concern and that it would be corrected.