

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF GRAND JURY)
RESPONSE) Resolution No. 2018-0479
)

UPON MOTION OF SUPERVISOR VANDER POEL, SECONDED BY SUPERVISOR SHUKLIAN, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD JUNE 12, 2018, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS CROCKER, VANDER POEL, SHUKLIAN, WORTHLEY, AND ENNIS
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE



ATTEST: MICHAEL C. SPATA
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: Mary Renello
Deputy Clerk

1. Considered, modified as needed, and approved the responses to the 2017/2018 Tulare County Grand Jury Final Report entitled: "Where is Trust, Transparency, and Accountability?"
2. Authorized the Chairman to sign the response letter.



**Board of Supervisors
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One

PETE VANDER POEL
District Two

AMY SHUKLIAN
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: June 12, 2018 - REVISED

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
County Counsel Sign-Off	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Julieta Martinez PHONE: 559.636.5000

SUBJECT: Grand Jury Response

REQUEST(S):

That the Board of Supervisors:

1. Consider, modify as needed, and approve the responses to the 2017/2018 Tulare County Grand Jury Final Report entitled: "Where is Trust, Transparency, and Accountability?"
2. Authorize the Chairman to sign the response letter.

SUMMARY:

The 2017/2018 Tulare County Grand Jury Final Report requests a response from the Board of Supervisors regarding the report entitled: "Where is Trust, Transparency, and Accountability?" (See attached copy of the report.)

The Board is required to provide comments to the Presiding Judge of the Superior Court within 90 days after the report is filed with the Presiding Judge.

The draft response to the report is attached for consideration. It is requested the Board modify the draft, as needed, approve the response to the Grand Jury, and authorize the Chairman to sign the Response Letter.

FISCAL IMPACT/FINANCING:

There is no Fiscal Impact associated with the response to this request.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The County's Strategic Plan includes the Organizational Performance Initiative,

SUBJECT: Grand Jury Response – Show Me the Records!!!
DATE: June 12, 2018

which provides for the objective evaluation and measurement of County program performance. The Board's approval of the Grand Jury Final Report responses assist in the fulfillment of this initiative by ensuring accurate information is available to all residents.

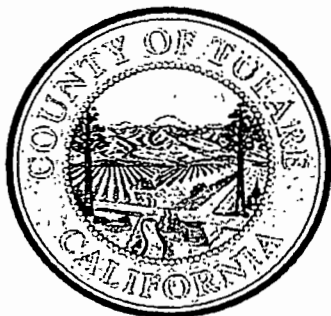
ADMINISTRATIVE SIGN-OFF:



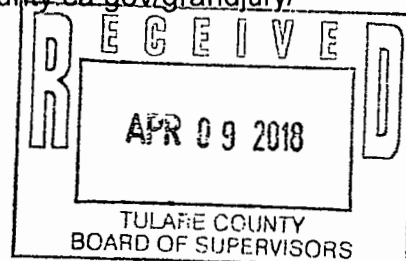
Julieta Martinez
Chief of Staff

cc: County Administrative Office

Attachment(s) Grand Jury Report – Where is Trust, Transparency, and
Accountability?
Draft Response Letter



TULARE COUNTY GRAND JURY
 5963 S Mooney Boulevard Visalia, CA 93277
 PHONE: (559) 624-7295
 FAX: (559) 733-6078
 E-MAIL: grnd_jury@co.tulare.ca.us
 WEB: <http://tularecounty.ca.gov/grandjury/>



ATTENTION: Chairman Steve Worthley
 AGENCY: Tulare County Board of Supervisors
 ADDRESS: 2800 W. Burrel Ave., Visalia, CA 93291

California Penal Code §933.05 (f) mandates that the Tulare County Grand Jury provide a copy of the portion of the final Report that affects that agency or person of that agency two working days prior to its public release. Advance release or disclosure of a Grand Jury Report is prohibited prior to its public release.

Attached is a copy of your portion of the 2017-2018 Tulare County Grand Jury Final Report.

California Penal Code §933(c) requires a response to said document. Depending on the type of respondent you are, a written response is required as follows:

- PUBLIC AGENCY:** The governing body of any public agency that is required to respond must do so within NINETY (90) DAYS from the date this report was approved as final by the Presiding Judge.
- ELECTIVE OFFICER OR AGENCY HEAD:** All elected officers or heads of agencies that are required to respond must do so within SIXTY (60) DAYS from the date this report was approved as final by the Presiding Judge.

Please be advised, this portion of the final report was approved as final by the Presiding Judge on 4/5/18.

YOU MUST SEND YOUR RESPONSE TO EACH OF THE FOLLOWING:

The Honorable Judge Brett Alldredge
 County Civic Center, Room 303
 221 S Mooney Blvd
 Visalia, CA 93291

Tulare County Grand Jury
 5963 S Mooney Blvd
 Visalia, CA 93277

Tulare County Board of Supervisors
 2800 W. Burrel Ave
 Visalia, CA 93291
 (For County Agencies Only)

Received by: Alyssa Untch

Date: 4/9/18

Report Name: Where is Trust, Transparency, and Accountability?

Response Due by: July 8, 2018

Delivered by: [Signature]

Date and Time: 4-9-18-940

Release Date: April 12, 2018

Howard Stroman, Foreman 2017/2018 Tulare County Grand Jury

PREPARE A SEPARATE RESPONSE FOR EACH REPORT

California Penal Code §933.05 mandates the manner in which responses are to be answered.

See reverse for Penal Code §933.05 information.

§933.05. Response to Grand Jury Recommendations--Content Requirements; Personal Appearance by Responding Parry; Grand Jury Report to Affected Agency

(a) For purposes of subdivision (b) of §933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

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

(b) For purposes of subdivision (b) of §933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore:

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the finding of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

WHERE IS TRUST, TRANSPARENCY, AND ACCOUNTABILITY?

BACKGROUND:

Per Government Code § 56036, "District" or "Special District" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries."

East Oroshi is an unincorporated farming community located in the northeastern area of Tulare County. The East Oroshi population of approximately 700 people is serviced by the East Oroshi Community Service District (EOCSD.) There are approximately 110 property owners subscribing to water and sewage services. According to the Tulare County Registrar of Voters, there are currently 92 registered voters in EOCSD.

EOCSD is tasked with providing water to the community of East Oroshi. The community of East Oroshi has not had potable drinking water for over 10 years, as nitrate levels continue to exceed state and federal standards. Bottled water is provided by EOCSD for drinking and cooking.

REASON FOR INVESTIGATION:

The Tulare County Grand Jury initiated an investigation into the operations of EOCSD to determine their compliance with state and federal regulations.

METHOD OF INVESTIGATION:

1. Interviewed witnesses.
2. Reviewed available documents.
3. Conducted site visits.

FACTS:

1. EOCSD is required to be in compliance with SB135 Chapter 249, Government Code § 61040 and §61042.
 - A. "The board of directors shall establish policies for the operation of the district." Government Code §61040 (a)
 - B. "The board of directors shall adopt policies for the operation of the district, including, but not limited to, administrative policies, fiscal policies, personnel policies, and the purchasing policies required by this division." Government Code §61045 (g)

C. "The board of directors shall provide for the implementation of those policies which is the responsibility of the district General Manager." Government Code (§61040 (a))

2. Subpoenas were served requesting Policy and Procedures, District Bylaws, and other documents, as required by law.
3. "The county treasurer of the principal county shall serve as the treasurer of the district." Government Code §61050 (b)
4. The EOCSD office is scheduled to be open on Tuesdays from 2 P.M. – 4 P.M.
5. Customers are charged \$57.00 per month for water and sewer services.
6. EOCSD is currently in the process of rehabilitating an existing well to provide potable water. A new well is awaiting state certification. Both projects are being financed by Proposition 84 funds.
7. Special Districts are required to provide a financial audit annually to the County Auditor.
8. EOCSD is pursuing funding to upgrade water meters.
9. EOCSD is required to appoint a General Manager. Government Code §61050 (a)
10. EOCSD has only one employee, a part-time employee who is salaried with benefits.
11. EOCSD office is required to be compliant with the Americans with Disabilities Act (ADA).
12. EOCSD is required to comply with the Brown Act.
13. "The board of directors shall adopt rules or bylaws for its proceedings" Government Code § 61045 (f)
14. "A legislative body of five members known as the board of directors shall govern each district." Government Code §61040 (a)
15. The board of directors can submit a request to the Tulare County Board of Supervisors to fill board vacancies. (SB 135 Chapter 2 §61022)
16. California SB 154 Chapter 249 and Government Code §61050(f) requires persons handling district finances to be bonded.

FINDINGS:

- F1. EOCSD does not have administrative policies, fiscal policies, personnel policies, or purchasing policies as required.
- F2. EOCSD failed to provide subpoenaed documents after a two week extension including:

- A. Policy and procedures manual
 - B. Board bylaws
 - C. Complete board meeting minutes for 2017
 - D. Procedures for billing and delinquent account collection
 - E. District Resolution approved by the Tulare County Board of Supervisors to maintain bank accounts outside of the county treasurer
- F3. EOCSD failed to comply with the requirement of SB135 in selection of a treasurer.
 - F4. The available office hours are inadequate to accommodate the needs of the community. EOCSD is not consistently adhering to the posted office hours.
 - F5. According to the Tulare County Auditor's records, EOCSD is delinquent in filing an audit for FYE 06-30-2016.
 - F6. EOCSD does not have a General Manager.
 - F7. The sole EOCSD employee is designated as an office manager. The office manager duties encompass some tasks of a General Manager.
 - F8. There is limited understanding by the board members of employee duties performed. There is no established schedule for work hours or a system of tracking hours worked.
 - F9. A site visit to the EOCSD office discovered no designated disabled parking.
 - F10. Board meeting minutes received for 2017 indicate that previous meeting minutes were not approved by the board. Meeting minutes do not reflect the actions of the board.
 - F11. Agenda packets are not provided in a timely manner to board members.
 - F12. The board of directors has not adopted rules or bylaws for conducting its meetings.
 - F13. The EOCSD board consistently operates with fewer than five board members. Meetings have been cancelled for lack of a quorum.
 - F14. EOCSD has not established bonding for their employee handling finances.

CONCLUSION:

Special districts with limited resources are often met with difficulties filling the required board seats. The Tulare County Board of Supervisors must be more proactive in discharging their supervisory duties over special districts with dysfunctional boards such as EOCSD.

RECOMMENDATIONS:

- R1. Hire a qualified general manager.
- R2. Divide financial and administrative duties among more than one employee.
- R3. Cross train board members in the operation of district functions.
- R4. Seek grant funding to become compliant with state regulations requiring all customers to have their water metered by 2020.

- R5. Petition the Tulare County Board of Supervisors to appoint new board members for EOCSD.
- R6. Contact the California Special District Association for education and guidance.
- R7. Investigate the feasibility of consolidating with other districts.
- R8. A forensic audit be conducted of EOCSD within six months.

REQUIRED RESPONSES:

- 1. Tulare County Board of Supervisors (R1-R8)
- 2. East Orosi Community Services District Board President (R1-R8)
- 3. County of Tulare Auditor-Controller (R8)
- 4. LAFCO (R7)

Disclaimer

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Section 924.2 and 929).