



610-40
Town of Mammoth Lakes

Office of the Mayor

437 Old Mammoth RD, Suite R

P.O. Box 1609 Mammoth Lakes, CA 93546

Phone (760) 934-8989 ext. 223, Fax 934-7493

www.townofmammothlakes.ca.gov

November 25, 2014

Honorable Stan Eller
Presiding Judge
Superior Court of California
Mono County
PO Box 1037
Mammoth Lakes, CA 93546

RE: Town of Mammoth Lakes Response to the Final Report of the
2013-2014 Grand Jury - "Proposed Materials Recovery Facility (MRF) –
Case #1314.02"

Judge Eller,

I am pleased to provide responses to the final 2013-2014 Grand Jury
report which included one case that related to the Town of Mammoth
Lakes: "Proposed Materials Recovery Facility (MRF) – Case #1314.02".

The report included five separate findings with eight recommendations.
The following responses to both the findings and recommendations were
discussed and approved by the Town Council on November 19, 2014.

Responses to Grand Jury Findings and Recommendations

Finding 1. The Town agrees that one discussion of a potential materials
recovery facility (MRF) occurred in open session at a Town Council
meeting between 2009 and July 2013. The Town also agrees that other
discussions were held in closed session concerning the price and terms
for the potential acquisition of the existing solid waste transfer station or
the adjacent parcel sometimes known as the "expansion parcel". The
Town does not agree that any violation of the Brown Act occurred. The
Town will discuss solid waste issues in open session where appropriate
going forward, including discussions of potential long-term solutions for
solid waste disposal, Mono County parcel fees, a new or extended solid
waste franchise agreement, and issues involving CalRecycle.

Recommendation 1. The Town disagrees with the recommendation and
declines to initiate a process to record closed sessions. Recording closed

sessions is not considered to be a best practice, and anecdotal evidence suggests that relatively few cities do this. Recording closed sessions increases the risk of inadvertent and improper disclosures of closed session discussions.

Recommendation 2. The recommendation is already being followed by the Town. Town Council and management staff do attend regular training on the Brown Act and related training as required. This training takes place at least every two years. Certificates of attendance at the training program are provided to each person who attends the training. The Town Attorney does provide advice when requested on closed session items. The Town Attorney attends the majority of closed sessions in person or by phone and does actively limit discussion. Current Town management has also been trained and advised as the proper conduct of closed sessions and also limits the discussion as appropriate. The Council recently initiated an additional “reporting out” procedure. In addition to reporting out immediately following a closed session, when the public are generally not present, the item is placed on the next regular meeting agenda and a brief statement is made by the Mayor regarding the closed session item.

Recommendation 3. The Town agrees with the recommendation that the Town Council “adhere not only to the letter of the Brown Act, but to its spirit as well . . .” The very purpose of a closed session is to allow for a process that allows the Council to effectively carry out the “people’s business”. To the extent that this process is deemed necessary and proper it will be used. If the business at hand can be conducted in an open session without placing the Town at a disadvantage, releasing confidential information or otherwise impeding the business of the Town, the item will be discussed in an open session.

Recommendation 4. This is not a formal recommendation requiring action by the Town and the Town does not disagree with the information provided.

Finding 2. The Town does not disagree with the statement made in the finding.

Recommendation. The Town agrees that property that is the subject of potential acquisition which is discussed in closed session should always be identified in such a way that it can be readily identified by the public. The Town believes this can best be done by the use of an APN number as this gives certainty to the parcel as addresses in the Town are not always correct. As the Town goes forward the address will be provided if it is known, along with the APN number. The Town used the reference to the specific parcel as the “firewood lot” as that served as a descriptive definition of the property that was known by the local public, who may not have known the parcel by address or APN number.

Finding 3. The Town agrees that closed sessions have at times been held prior to regular meetings, and observes that nothing in the law prohibits this. The Town agrees that announcing the closed session prior to conducting the session is required, and that this was not always done in the past.

Recommendation: The Town agrees with the recommendation that the Town Council comply with applicable law and keep accurate minutes. Prior to conducting a closed session the requirements of Government Code Section 54957.7 will be followed, which reads: "54957.7. (a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda." The Town partially agrees with the recommendation that meetings be scheduled to maximize the opportunity for public participation. This is a good goal and the Town will take it into consideration, but in scheduling meetings the Town also must endeavor to avoid late-night closed sessions when Council members may be too tired to deliberate carefully, and to ensure that as many Town Council members as possible are available to attend the meeting.

Finding 4. The Town agrees with the statement of the finding.

Recommendation. The Town agrees with the Grand Jury's observation of the reduction of Town staff, the part-time nature of the Council and the impact that staff turnover has on the Town's institutional memory. These facts continue today. Town staff and the Council does and have made it a point to bring matters before Council with appropriate background information, reasonable solutions, alternatives and analysis for consideration in the decision making process. The public is engaged in this process.

Finding 5. The Town does not fully agree with the finding, as closed session items are listed in the agenda in a way that complies with the Brown Act.

Recommendation. The Town agrees that closed session items should be listed clearly on the agendas.

I want to thank the Grand Jury for the work they provide our community. Their efforts add to the overall improvement of local government and provide an important oversight function for our residents. The majority of the current Town Council was not involved in the matter reviewed by the Grand Jury, but appreciates the work of the Grand Jury as it provides guidance for future actions. I should also note that the matter reviewed by the Grand Jury was undertaken by four

councilmembers, as then-member Rick Wood appropriately recused himself from these discussions due to a conflict of interest. Thank you to the Court for the assistance and guidance that is provided to Grand Jury.

Sincerely,

A handwritten signature in black ink that reads "Jo Bacon". The signature is written in a cursive, flowing style.

Jo Bacon
Mayor

CC: Town Council
Town Manager
Town Clerk
Town Attorney