



Town of Mammoth Lakes

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July 19, 2017

Honorable Mark Magit
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 2016-2017 Grand Jury - "Investigation #2 Town of Mammoth Lakes Conflict of Interest" / "Investigation #03 Town of Mammoth Lakes Finance Department"

Judge Magit,

I am pleased to provide responses to the final 2016-2017 Grand Jury report which included two investigations related to the Town of Mammoth Lakes: "Investigation #2 Town of Mammoth Lakes Conflict of Interest" and "Investigation #03 Town of Mammoth Lakes Finance Department".

The report included four findings with four recommendations for Investigation #2, and five findings and five recommendations for Investigation #03. The following responses to both the findings and recommendations were discussed and approved by the Town Council on July 19, 2017. This response is being provided within 60 days of the submission of the grand jury's final report.

Responses to Grand Jury Findings and Recommendations - Investigation #2 re Conflicts of Interest

Finding 1. The Town does not agree with the finding that Town Council members have little or no training regarding conflicts of interest, and that Town Council members have found it difficult to determine when to abstain from votes. Town Council members have received the training in conflicts of interest required under the Government Code, and consult the Town Manager and Town Attorney as needed. Town Council members have frequently recused themselves from participating in

decisions as to which they had a conflict of interest, and will continue to do so. The Town is not aware of any instances in at least the last six years in which a Town Council member participated in a decision despite a conflict of interest.

Recommendation 1. The Town already complies with this recommendation. Except for the two newest Town Council members, all current and former (within the last several years) Town Council members and senior staff have received the ethics training required by the Government Code, which includes a discussion of conflicts of interest. Although this recommendation includes obtaining training from the Fair Political Practices Commission (FPPC) “or other organizations that specializes [sic] in conflict of interest”, the FPPC does not provide such training. The Town Attorney has presented dozens of sessions of this training, and continues to stay up to date on the requirements of the law.

Finding 2. The Town does not agree with this finding. The Town is not aware of a single instance of a Town Council member participating in a discussion in which a conflict of interest was present as defined by the Political Reform Act and the associated regulations adopted by the FPPC. The grand jury’s report fails to acknowledge that the FPPC examined the conflict allegation regarding the Village parking structure and determined that no conflict of interest existed. In light of this determination by the FPPC, it is not clear why the grand jury believed that a conflict of interest was present regarding the Village parking structure. The grand jury report did not provide any other examples of alleged conflicts of interest on the part of the Town Council. The Town acknowledges a single instance in which the Town Manager was involved in recommending a governmental decision in which he had a conflict of interest. However, the conflict was identified prior to any decision being made, and the source of the conflict subsequently withdrew its proposal from consideration by the Town.

Recommendation 2. The Town does not agree with this recommendation. It is ultimately the responsibility of each Town official to be aware of his or her own financial interests and to seek advice from the Town Attorney or Town Manager if there is any possibility of a conflict of interest. Town staff can and should provide such advice and help Town officials comply, but the responsibility for complying with the conflict of interest laws and regulations remains with the individual officials.

Finding 3. The Town does not agree with this finding. The ethics training that each elected and appointed official is required to receive every two years does include a discussion of Form 700 and what it requires. The Town does agree that Form 700 is complex and that it is possible to make inadvertent errors in filling it out.

Recommendation 3: The Town agrees with the recommendation that annual Form 700 instruction or training be made available to Town officials. The Town will implement this recommendation.

Finding 4. It is unclear what this finding is. To the extent that the finding is that no legal conflict of interest existed with respect to the Town Council's vote regarding the parking lot west of the Village, the Town agrees with this finding. To the extent that the finding is that Town Council members should be aware of the public perception regarding decisions and that public trust in government needs to be a priority, the Town agrees with this finding.

Recommendation 4: The Town already complies with this recommendation. The Town's conflict of interest code is reviewed and updated every two years.

**Responses to Grand Jury Findings and Recommendations -
Investigation #03 re Town of Mammoth Lakes Finance Department**

Finding 1. The Town agrees with the finding that the Town's audit program needs to be refined and fully implemented.

Recommendation 1. The Town agrees in part with this recommendation. While the need for an audit program is evident, the Town does not agree with the grand jury's suggestion regarding the best approach to achieve a viable program. The top 20 remitters, comprising approximately 68% of total TOT, are tracked on an annual basis for the purposes of looking for consistency year-after-year and for consistency among the group. This allows the Town to look for trends and track differences in performance of one individual compared to others. Once an individual is identified as performing outside the standard deviation of the group, an interview will be conducted to determine what change in business occurred to cause the change. If answers to this interview do not produce meaningful results, a full audit of the business can be conducted. The purpose of this approach is to pre-screen the business and identify who needs to be audited first to provide the most efficient process of auditing. The Town believes this approach can be completed with the existing staff. This same method can be implemented beyond the top 20 remitters using the entire TOT population and breaking them into common groups in order to develop a baseline for reviewing annual performance. The collective performance of the members in the group would establish this baseline of expectation and anyone falling outside that group would earn an audit. The Town does not agree that the separate expense and time of retaining an outside auditing firm is

necessary or that it would be cost effective, nor does the Town agree with hiring additional staff for this purpose.

Finding 2. The Town agrees in part with this finding. The Town's enforcement efforts, particularly the manual research effort, have been optimized by the existing staff, which produced strong enforcement results in FY2016-17. Any additional improvement in this area will come from developing or contracting for better tools to search for potential illegal rentals, rather than hiring additional staff.

Recommendation 2. The Town disagrees with this recommendation. The Town believes increases in efficiency, improved processes, and the implementation of better tools will achieve the same results with existing staff. The Town also does not believe the statements in the grand jury's report that 10 - 40% of TOT goes uncollected are unsubstantiated. The Town is committed to continual improvement to process and adjustments to staff assignments to achieve the highest possible performance.

Finding 3. The Town agrees in part with this finding. The Town believes current staff has been very effective with its current process to identify illegal rentals. We do not believe that additional staff performing existing process will produce more results. We need to develop a more effective approach that will utilize technology to perform the majority of search functions.

Recommendation 3. The Town agrees in part with this recommendation. Town staff have prepared a scope document that would be used for a Request for Proposals to companies that provide electronic solutions to online search. The Town Council has set aside \$50,000 to secure a solution and provide for implementation. Once a vendor is selected, Town staff anticipate additional temporary labor will be needed to support the implementation and onboarding process. However, the evaluation of future staff needs will need to be determined after such a program produces enforcement cases to work, allowing time to evaluate impact and determine actual staffing needs.

Finding 4. The Town agrees with this finding and will continue work to improve in both of these key areas.

Recommendation 4. The Town agrees in part with this finding. Town staff is tight in many areas and the Town's management team determine resources and needs on an annual basis through the budgeting process. The Town management team puts forth the staffing requests that will be most beneficial to the Town. Needs do exist in the Finance Department,

but they fall lower on the list than other staff needs such as those that provide public safety. Town staff continue to work on their approaches to process efficiency to maximize the Town's ability to do more with less. The Town will continue to evaluate its staffing needs, but always in comparison to overall Town needs.

I would like to thank the grand jury for their efforts and for the service they provide our community. Their efforts add to the overall improvement of local government and provide an important oversight function for our residents. Thank you also to the Court for the assistance and guidance that is provided to grand jury.

Sincerely,



John Wentworth
Mayor

CC: Town Council
Town Manager
Town Clerk
Town Attorney