

RESPONSE TO GRAND JURY REPORT FORM

Report Title: The Need for Labor Negotiation Transparency

Report Date: June 1, 2015

Public Release: June 4, 2015

Response by: September 20, 2015 (Date of Extension)

FINDINGS

- I (we) agree with the findings numbered: F3
- I (we) disagree wholly or partially with the findings numbered: F1, F2  
(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefor.)

RECOMMENDATIONS

- Recommendations numbered \_\_\_\_\_ have been implemented.  
(Attach a summary describing the implemented actions.)
- Recommendations numbered \_\_\_\_\_ have not yet been implemented, but will be implemented in the future.  
(Attach a timeframe for the implementation.)
- Recommendations numbered \_\_\_\_\_ require further analysis.  
(Attach 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 director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)
- Recommendations numbered R1, R2.1 – R2.5 will not be implemented because they are not warranted or are not reasonable.  
(Attach an explanation.)

Date: 9/11/15

Signed:   
Kathleen Hoertkorn, Mayor

Number of pages attached 4



September 11, 2015

The Honorable Judge Faye D'Opal  
Marin County Superior Court  
P.O. Box 4988  
San Rafael, CA 94913-4988

RE: Response to Grand Jury Report June 1, 2015  
*"The Need for Labor Negotiation Transparency"*

Dear Honorable Judge D'Opal:

The Ross Town Council has received and reviewed the Grand Jury Report – "The Need for Labor Negotiation Transparency" dated June 1, 2015. The Report directs the Town to respond to Findings Nos. 1-3 and Recommendations Nos. 1-2. The Town Council approved this response at the September 10, 2015, Council meeting.

#### **STATEMENT REGARDING FINDINGS**

**Finding 1:** *The residents of Marin County pay taxes to support decisions made by the Board of Supervisors and City and Town Councils; however these residents have minimal opportunity to provide input into labor negotiations.*

**Response:** The Town Council agrees in part and disagrees in part with this finding. There is no doubt that the residents of Marin County and Ross pay taxes that provide revenues to support the Town's provision of services to the community.

The Town does not agree that residents have minimal opportunity to provide input into labor negotiations. Ross is a small town in Marin with 20.8 FTE employees, with 7 FTE belonging to a labor association which bargains collectively (the Ross Police Officers Association – RPOA). The other employees are unrepresented. Mandatory subjects of bargaining include wages (and other forms of compensation, i.e. fringe benefits), hours and working conditions. Current labor agreements, salary schedules and the Town's budget outlining personnel costs are available for review by the public on the Town's website or at Town Hall. The members of the public are encouraged to provide comments and input to the Council related to labor costs such as: at the public meeting the proposed contract is available to the Council to vote on; at budget workshops and budget hearings with labor costs being a significant part of the budget; and at any Council meeting as part of the public comment portion of the agenda. Proposed labor agreements are always placed on the Town Council agenda and public comment is always taken prior to Council consideration.

**Finding 2:** *The COIN process can be implemented without affecting the manner in which tentative agreements are negotiated but which nevertheless will ensure public awareness of the terms and costs of those agreement in advance of their being adopted.*

**Response:** The Town does not agree that the COIN process can be implemented without affecting the manner in which tentative agreements are negotiated. In Ross, the negotiation process allows for discussion between the Town labor negotiator and the bargaining unit negotiator and proposals and counter-proposals to be discussed between the parties. Pausing during negotiations to call for an independent audit of a proposal then circulating that proposal for public discussion even if it has already been rejected by one side or the other is a significant change and would affect the timing and tone of labor negotiations.

**Finding 3:** *The COIN process mandates transparency in government decision-making, allowing residents to be informed and to participate in public discussion of how their tax dollars are spent.*

**Response:** The Town agrees that the COIN process does provide for transparency and would increase the amount of information that the Town would publish during the negotiation process. Residents potentially would participate in public discussions on the information presented through that process.

## **RECOMMENDATIONS**

**Recommendation 1:** *Marin County Board of Supervisors and each City Council and Town Council in Marin County adopt and implement a COIN ordinance prior to June 1, 2016, or prior to the next round of negotiations, whichever comes earlier.*

**Response:** The Grand Jury's recommendation that the Town of Ross adopt a COIN ordinance attempts to address a perceived lack of transparency regarding the Town's labor negotiation process and the fiscal impact of the resulting labor agreement. The Ross Town Council shares the goal of being transparent in our operations. While we appreciate and agree with the Grand Jury's position that information regarding the negotiation process and employee compensation should be easily accessible by the public, we believe the Town already provides sufficient notice and an opportunity to comment when tentative agreements have been reached, and makes available detailed cost information regarding current and anticipated labor costs. We also believe we provide opportunities in the budget process and at regular Council meetings where the public is provided and can comment on salary and benefit items and associated costs. Therefore we believe the recommendation that Ross adopt a COIN ordinance and incur the costs associated with its implementation is not warranted.

**Recommendation 2:** *Marin County Board of Supervisors and each City Council and Town Council in Marin County adopt and implement a COIN ordinance which includes, but is not limited to the following:*

- 1. Hire an independent, experienced Lead Negotiator to negotiate all labor agreements.*

**Response:** The Town of Ross is currently negotiating with our one labor association RPOA. For this negotiation the Town is using an independent, experienced lead negotiator and RPOA is also using an independent negotiator. That being said, there could be circumstances in the future where we may think the best outcome and public interest is best served by having Town management staff directly negotiating with our labor association. In addition, the Town and thus the public would save the cost of hiring an independent negotiator by having Town staff conduct the negotiations. The Town believes we should consider whether to hire an independent lead negotiator or have Town staff negotiate labor agreements based on a review of the circumstances prior to negotiations commencing to determine what is in the best interest of the public rather than mandating that all negotiations are best handled by an independent lead negotiator.

- 2. Hire an independent auditor to determine the fiscal impact of each provision in the current contract, and make this analysis available for public review.*

**Response:** Town staff provides information related to the fiscal impact of each provision of the current labor agreement with the Ross Police Officers Association, as well as the cost of salaries and benefits for unrepresented employees, which is included in detail in the Town's annual operating budget. Department budgets include employees' salaries, as well as expense detail for each Town paid benefit (health premiums, retirement, specialty incentives, longevity pay, uniform allowance, holiday pay, etc.). The Town's budget, labor agreements and salary schedule are available on the Town's website, as are the comprehensive annual audits. The Town does not need to hire an "independent auditor" to determine the fiscal impact of each provision in the current contract and would find that additional cost an unnecessary and undue public expense.

- 3. Make public each proposal, after it is accepted or rejected by either Party, and publicly verify the costs of that accepted or rejected proposal by an independent auditor.*

**Response:** Labor negotiations are an iterative process in Ross where proposals and counter proposals are exchanged and discussed in a fairly informal way until a tentative agreement is reached. In the process there could be a number of proposals and counter-proposals. Pausing during negotiations to call for an independent audit of each proposal and then circulating that

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proposal for public discussion even if it has already been rejected by one side or the other is a significant change and would lead to delays in the negotiations as well as change the tone of labor negotiations. The tentative agreement is then presented to the Town Council (at a regular Town Council meeting) for their consideration along with a staff report that includes a statement as to the total cost of the proposal. It is the duty of the Town Manager and Finance Officer to ensure that the cost analysis is accurate. Hiring an independent auditor to cost out the tentative agreement would just increase the cost to the public and delay the negotiation process.

4. *Make public seven days prior to a Board or Council meeting the negotiated tentative agreement and the fiscal analysis thereof, which are to be independently verified.*

**Response:** Pursuant to State law, the tentative agreement, staff report, and all other agenda materials are made public at least 72 hours before the Council meeting. However, typically the Town of Ross is able to provide the material six days before the Council meeting. In the future, the Town can agree to make the tentative agreement and related staff report related to labor negotiations available to the public seven days in advance. The portion of the recommendation the Town does not agree with is having it being "independently verified" which as we discussed increases the cost to the public and delays the process without providing any additional benefit to the public.

5. *After seven days, place the final tentative agreement on the following two consecutive Employer's public meeting agendas: the first meeting is for discussion of the tentative agreement; the second meeting is for a vote by the employer to approve or disapprove the tentative agreement.*

**Response:** The Ross Town Council could agree with the concept of having the tentative agreement on two consecutive public meeting agendas. However, as a small Town with only one regular Council meeting a month this provision would lead the Town if we did not hold a special meeting to potentially violate Government Code 3505.1 which requires that the governing body vote to accept or reject a tentative agreement within 30 days of the date it is first considered at a duly noticed public meeting. Therefore, the Town will not be implementing this recommendation but will make public the tentative agreement seven days in advance of the Council meeting.

Thank you for the opportunity to review and respond to the Report. The Town Council appreciates the work of the Grand Jury in exploring issues of concern to the residents of Marin County.

Sincerely,



Kathleen Hoertkorn  
Mayor

cc: John Mann, Foreperson ✓