

## WHO RUNS MENDOCINO COUNTY?

May 31, 2019

### SUMMARY

Mendocino County is governed by an elected Board of Supervisors (BOS) consisting of five members and an appointed Chief Executive Officer (CEO). The BOS is charged with enacting legislation and determining overall policies for the county departments and commissions.

The CEO is appointed by the BOS and is responsible for day-to-day execution of County business. As specifically stated in Ordinance No. 4182 which created the position in 2007:

*...the Board of Supervisors expects the CEO to exercise overall responsibility for sound and effective government management of county government pursuant to board policy and adopted budget. . .*

The Mendocino County Grand Jury (GJ), based upon its investigation, finds that the BOS has failed to establish and publish strategic county-wide policies with effective long term goals that address county-wide issues of public safety, health, economic, environmental and other needs of our communities, as it is charged to do. Rather, the BOS reacts to crises as they arise.

The CEO has an enormous responsibility to fill in the gaps of leadership that occur. Often it appears that the CEO is providing leadership that has been abdicated by the BOS. This imbalance needs to be addressed by the BOS so that the county as a whole can benefit from more effective leadership on the part of its elected officials.

The GJ commends the County for including exclusive agenda item viewing on the BOS webpage.

The GJ notes that with the new BOS chair and two new supervisors there appears to be positive changes in the board dynamic.

### GLOSSARY

**BOS** – Board of Supervisors: The BOS consists of five elected officials, one from each district, with a mission to create and maintain a responsive and responsible government.

**CAO** – Chief Administrative Officer: The CAO is charged with evaluating the effective management of all county resources and with making recommendations to department heads and agency heads to assist them in meeting the BOS' set goals, policies and budgets.

**CEO** – Chief Executive Officer: The CEO is appointed by the BOS to oversee administration of county government and implement decisions made by the BOS. The CEO is the day-to-day manager of county government and represents the County and BOS in a variety of activities. The Executive Office oversees the preparation, adoption and administration of the County's

budget and coordinates the activities of other county departments to ensure the effective accomplishment of the BOS' directions and policies.

## **BACKGROUND**

The GJ became aware of public concerns addressing the issue of whether the CEO was exceeding her authority in determining and implementing policies that govern the County. The GJ turned its focus to the BOS itself and how effective the Supervisors are in addressing county-wide strategic needs, meeting the concerns of the public and establishing effective and easily accessed methods for constituents to contact individual board members.

## **DISCUSSION**

The BOS, in its mission statement and "Principles of Office," is charged with "creating and maintaining a responsive and responsible government" and is expected to represent the entire County of Mendocino while understanding the needs of a Supervisor's individual district. Further, "the primary mission of the BOS is to establish policies by which the County is to be administered." This would suggest that the Supervisors are therefore required to engage in strategic planning that effectively meets the needs of the County as well as their constituents and invites the participation of county residents to weigh in on strategic long term goals. Unfortunately, while strategic planning is essential for the health and safety of Mendocino County, there is no published long term strategic planning for the County as a whole by the BOS. The plan should include applicable benchmarks to address issues of homelessness, fire prevention, economic development, housing and other major concerns. The BOS is reactive and issues directives and establishes ad hoc committees only as concerns and issues arise.

In 2007, the BOS adopted a CEO position which replaced the CAO. While this change establishes greater responsibilities and authority in the CEO position, the BOS has neglected to establish a succession plan to insure a seamless transition in leadership. Presently, there is no formal succession plan for the Mendocino County CEO position. The Assistant CEO position is funded but unfilled.

The BOS routinely issues directives to the CEO but does not adequately track directives or require specific timelines, benchmarks and completion dates. The directives are not published on the county website or accessible to the public unless requested in person. The individual Supervisor must ask the Executive Office for directive status updates. One neighboring county (Sonoma) publishes an "Action List" on its website that lists goals, proposed action, potential activities or projects, status, funding status, primary agency, county role, other county agencies and outside partners, on a chart that clearly provides substantive information regarding what their BOS is pursuing. Additionally, the website provides for constituents to respond to these proposed goals and actions. Changes like these would align the BOS with its aspiration to establish a truly "...responsive and responsible government."

The published CEO Report *could* be a great tool for disseminating information to the public and Supervisors. A CEO Report that includes BOS directives with status updates, Sheriff overtime, and major County projects would provide an opportunity to keep constituents fully updated on

important issues. The report could also include information on fire recovery efforts and work currently being done to proactively make the County ready for wildfires along with other strategic planning issues. It should be published monthly. While it is available online, consideration should be given to placing the report in locales like the libraries and other community centers, along with local newspapers since not all constituents have access to online information.

The County website needs to be a better communication tool. There is no designated oversight body for maintaining or directing the website content. Each department is individually responsible for updating or adding content. While the BOS web page provides easy access to the agenda, minutes and video for each board meeting, it lacks other critical information. There is no embedded communication/complaint form for constituents to raise critical issues with their individual supervisor. Currently, the web page does not provide direct contact numbers for individual Supervisors. Finally, there is no published process that requires the Supervisors to respond to constituents in a timely manner or even to respond at all.

The BOS meetings provide an important opportunity for concerned citizens to address the Board directly. Public expression is a cornerstone of democratic participation and all citizens availing themselves of this opportunity should feel respected and that their concerns will be considered. While the Brown Act specifies that the Board cannot take action on a non-agenda item, the Act does not prevent Supervisors from acknowledging those who make public comments. Supervisors can ask clarifying questions, can refer matters to staff for further action or advise the speaker if action has already been taken. It is incumbent upon Board members to make speakers feel that their concerns have been taken seriously and this necessitates more than a mere rote “thank you” that is so often the default response of the Chairperson. Further, the minutes of each Board meeting should contain not just the names of those who appear before the Board during public comment, but also a short description of the issue addressed as well.

The BOS Consent Agenda often includes items of a controversial nature, for example, salary increases and cost overruns. This routine inclusion of controversial items in the Consent Agenda prevents debate and public input. While a supervisor can pull any item from the agenda, it would be more efficient to simply follow the established guidelines that determine which items should be included and which should be excluded.

In order for the individual Supervisors to be more responsive to their constituents, regularly scheduled meetings in each district would be beneficial. While some constituents might contact individual supervisors with concerns, the public meeting provides a forum for meaningful engagement and if the meetings are scheduled at least quarterly, the public will have a consistent opportunity to participate in County government.

## **METHODOLOGY**

The GJ interviewed the CEO, members of the Executive Office, and members of the BOS, past and present. The GJ members also attended and monitored the bi-monthly meetings of the BOS. Mendocino County budgets from 2010 to the present were also reviewed.

**FINDINGS**

- F1. There is no published long term county-wide strategic planning by the BOS, e.g., fire response, homelessness, cannabis, housing and economic development.
- F2. There is no written succession plan for the CEO of Mendocino County.
- F3. The BOS does not adequately track directives given to the CEO. The current list of directives has inadequate status and descriptors and there are no timelines or milestones for completion.
- F4. The CEO Report does not include substantive department updates, e.g. new jail addition, Sheriff overtime, BOS directive status, departmental statistics and major road project status.
- F5. The Consent Agenda has often included controversial items, e.g. salary increases and cost over runs.
- F6. In the BOS minutes, the name of the public speaker is listed but not a description of the issue raised.
- F7. There are no scheduled proactive meetings with residents of individual districts to speak with their Supervisor.
- F8. The GJ could not find a complaint or issue form on the Mendocino County website.
- F9. There is no procedural requirement for any Supervisor to respond to a constituent complaint or issue.

**RECOMMENDATIONS**

The Grand Jury recommends:

- R1. strategic goals should be formulated by the BOS each year, prioritized and posted on the BOS page of the County website,
- R2. develop a succession plan for the CEO position,
- R3. determine whether an Assistant CEO position is necessary. If the position is not going to be filled, it should be unfunded,
- R4. the BOS needs to include expectations for completion at the time directives are given to the CEO,
- R5. directive status should include goal, proposed action, funding status and primary agency,
- R6. the BOS meeting agenda should include directives and status updates,

- R7. improve the CEO Report to include information on current major projects, tracking, expenditures and strategic goals,
- R8. the Consent Agenda should not include controversial items, e.g., salary adjustments or cost Overruns,
- R9. the BOS minutes should include the name of the speaker and the issue raised during public expression,
- R10. publicized, regularly scheduled district town hall meetings should be held by each Supervisor,
- R11. the BOS page of the County website should contain an embedded complaint/issue form that requires sender contact information sent directly to the individual supervisor,
- R12. the BOS should draft and publish a policy for responding to constituent complaints and issues. The policy should include an expectation of timely response by the Supervisor.

## RESPONSES

Pursuant to Penal Code §933 responses are required within 60 days from the following individuals from the following governing bodies:

- Board of Supervisors (F1-F3,F5-F9 and R1,R2,R4-6,R8-R12)

Pursuant to Penal Code 933.05, responses are required within 90 days from the following individuals from the following governing bodies:

- Chief Executive Officer (F2-F5,F8 and R2,R3,R5,R7-R9,R11)

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

## APPENDIX

The Ralph M. Brown Act Cal. Gov. Code §54954.2(E)(3)

(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or

the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

Reports issued by the Mendocino County Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the grand jury not contain the name of any person or facts leading to the identity of any person who provides information to the civil grand jury.
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