

CONTRACT OVERSIGHT IN THE CITY OF OCEANSIDE

SUMMARY

The City of Oceanside (City) has contracted with MainStreet Oceanside, Inc. (MSO) since 2000 for services related to the promotion and revitalization of downtown Oceanside. The 2008/2009 San Diego County Grand Jury (Grand Jury) received a citizen complaint alleging improprieties in the financial accounting practices used by both the City and MSO in connection with MSO's use of City funds. The Grand Jury requested that an audit be conducted by the San Diego County's Office of Audits & Advisory Services (OAAS) to examine those accounting practices. The resulting audit is titled: *Final Report: Grand Jury Audit of the Oceanside Contract with MainStreet Oceanside, Inc.* (Grand Jury Audit). It is Report No. A09-024 dated April 2009. The results of the audit indicate that there are accounting problems that should be corrected by both the City and MSO.

PURPOSE AND BACKGROUND

MSO is a not-for-profit organization that is affiliated with the national Main Street program that operates under the National Trust for Historic Preservation. As part of the Main Street program, the National Trust provides guidelines for the authorized use of the name "MainStreet". The purpose of MSO is to help the City to promote and revitalize downtown Oceanside.

In furtherance of its general purpose, MSO's primary activity has consisted of the promotion and management of a variety of special events in the Oceanside area. Some of those events include: Arts Alive, O'Fest, Día de Los Muertos, and the Sunset Market.

When MSO was founded, it was funded by the City with the understanding that MSO would become self-sustaining. MSO generates funding on its own from such sources as contributions, profits from special events, and membership dues. In fact, MSO has never become self-sustaining due to a variety of factors such as rising costs and limited profitability of the special events. Probably the largest reduction in MSO revenues came from the discontinuation of the O'Fest event. As a result, MSO has always been substantially funded by the City.

The Grand Jury received a complaint indicating that MSO was not properly accounting for the funding it receives from the City, and that the City has not taken sufficient steps to obtain proper financial reporting from MSO.

PROCEDURES

The Grand Jury determined that the complaint alleged serious accounting problems within the City, and that an investigation should be conducted to determine if problems truly exist. In order to properly investigate the accounting procedures in question, the Grand Jury asked the OAAS to conduct an audit involving the City's contract with MSO. A copy of that audit is attached to this report as *Attachment A*. That Grand Jury Audit

notes that a separate internal control audit of MSO was conducted in January 2009 by the Miller Consulting Company. A copy of the Miller Consulting Company audit is attached to the Grand Jury Audit. The Grand Jury also reviewed documents relevant to the City's relationship with MSO, including City Council meeting minutes.

DISCUSSION

MSO is part of a nationwide Main Street program aimed at revitalizing downtown areas across the United States. It is one of several Main Street programs operating in the County of San Diego. MSO has successfully run a number of special events for the City that have attracted favorable attention to the City, and that have been popular with residents of the City. Statements appearing in minutes from meetings of the City Council indicate that downtown business people are pleased with efforts by MSO to promote downtown activities and development.

However, accounting irregularities have been alleged in connection with the City's funding of MSO, and irregularities have been identified in the Grand Jury Audit. On the City's side, problems exist primarily because the City has been lax in requiring adequate accounting reports from MSO. On MSO's side, problems have arisen primarily because MSO has not taken a professional approach to maintaining its accounts and preparing proper reports to the City on a timely basis. MSO has also allowed the appearance of improprieties to arise through the practice of hiring its own employees, or directors, to provide services to the organization.

The Grand Jury adopts the Grand Jury Audit, and concludes that the City and MSO should use the recommendations in that report as guidelines in improving MSO's financial accounting practices as well as the City's oversight functions. That report includes a full discussion of: the activities of MSO, MSO's financial reporting practices, the funding MSO has received from the City, MSO's lack of proper accounting practices, and the City's problems in conducting proper oversight of its contract with MSO.

In essence the problems with MSO's accounting practices are a result of a failure to implement generally accepted accounting practices. For instance: MSO has not had annual operating budgets; and has only employed one bookkeeper to handle all accounting, payroll, and personnel functions.

FACTS AND FINDINGS

Fact: MSO is a not-for-profit organization that was formed for the purpose of promoting the revitalization of downtown Oceanside.

Fact: MSO receives a significant amount of its funding from the City.

Fact: The City has failed to require MSO to submit adequate financial reports accounting for MSO's use of City funds.

Fact: MSO's accounting procedures are deficient in that MSO has not followed generally accepted accounting practices.

Fact: MSO has not complied with certain terms and conditions of its contract with the City.

Fact: MSO lacks internal controls to establish and maintain compliance with its contract with the City.

Finding #01: The City of Oceanside is currently unable to adequately monitor the use of City funds by MainStreet Oceanside.

Finding #02: MainStreet Oceanside's financial reports have not shown a clear correlation between the amounts and categories of authorized funds, and how the funds have actually been used.

Finding #03: MainStreet Oceanside is not in compliance with the contract requirements for financial reporting to the City of Oceanside.

RECOMMENDATIONS

The 2008/2009 San Diego County Grand Jury recommends that the City Council of the City of Oceanside:

09-30: Adopt procedures that will ensure that MainStreet Oceanside is giving financial reports to the City of Oceanside that will enable the City to exercise thorough oversight of the use of City funds by MainStreet Oceanside. Similar procedures should also be applied in other situations involving the use of City funds by outside organizations.

09-31: Make a public report describing how the City of Oceanside intends to address the problem of obtaining adequate financial reports from organizations that receive City funding.

The 2008/2009 San Diego County Grand Jury recommends that MainStreet Oceanside:

09-32: Adopt financial accounting procedures that will enable MainStreet Oceanside to comply with the financial reporting requirements contained in its contract with the City of Oceanside. Those procedures should meet the standards of generally accepted accounting procedures for reporting on the receipt and expenditure of City funds.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case

of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) 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 therefor.
- (b) 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 time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame 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 therefor.
- (c) 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.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Date</u>
City Council, City of Oceanside	09-30, 09-31	8/24/09
Main Street Oceanside	09-32	8/24/09