

Agenda Item No. 15.

To: Mayor and Ross Town Council
From: Gary Broad, Town Administrator
Re: Response to Grand Jury Report
Date: October 4, 2002

I. Agenda Item

Council Response to 2001-2002 Grand Jury Report "Residential Pre-Sale Inspections – Should Marin County Also Require Them?" as required by California Penal Code Section 933.05.

II. Discussion

Attached is a letter from Marin County Civil Grand Jury Foreperson, Conrad Kolh, regarding the requirement that the Town of Ross respond to the findings and recommendations of the 2001-2002 Grand Jury Report on Residential Pre-Sale Inspections – Should Marin County Also Require Them?"

Also attached is the Grand Jury Report. The report requires that the Town Council respond to Findings 6, 7 and 8 and Recommendations 2 and 3. These findings and recommendations are provided below. Following each one is a recommended response for the Council to adopt.

Finding 6. Based upon a sampling of jurisdictions by the Grand Jury, it appears that the actual scope of the pre-sale inspections in many jurisdictions bear little relationship to the enabling legislation of the local Municipal Code and applicable provisions of state law. In many jurisdictions the process appears to have evolved over time, without corresponding revisions having been made to the applicable Municipal Code.

Response: Our Municipal Code clearly lays out the material which should be included in a resale inspection including zoning classification, history of variances and use permits and conditions, any nonconformity related to construction, electrical, plumbing or heating, and any illegal/nonconforming structures. While the ordinance seems to generally reflect the resale review process, the ordinance could be amended to acknowledge that the planning department now takes part in the review.

Finding 7. Currently the scope of pre-sale inspections varies widely from jurisdiction to jurisdiction. This frustrates realtors who often work in multiple jurisdictions.

Response: While we are not aware on any frustration from realtors due to our resale inspection process, our building official attends the County Codes Advisory group which is investigating standardizing reports (see response to recommendation 3 below.)

Finding 8. Costs to perform the inspections/reports appear to be covered in fees collected (thus the process is revenue neutral), and can be undertaken with minimum staff.

Response: The Town raised its resale inspection fee to \$225 last year. This reflects the cost of having both the building inspector and the planning director take part in the physical inspection and in the subsequent paperwork. The inspection process also requires building department secretary time and Town Clerk time. The level of detail and the time involved in report preparation has increased over the last few years. The report cost was established to be revenue neutral.

Recommendation 2. Because the actual scope of the inspections/reports in many of Marin's cities and town appears to have little relationship to the enabling legislation of the local Municipal Code and applicable State laws, the cities and towns should have their City or Town Attorneys review existing practices and code provisions and make any appropriate revisions either to the codes or to the practices of the inspectors.

Response: We have provided our Town Attorney with a copy of the Grand Jury report and several recent Town resale reports and asked him to review whether our resale report practices are consistent with our code or whether any modifications in either ordinance or practice are warranted.

Recommendation 3. The jurisdictions that require pre-sale inspections should either establish a new study committee or utilize an existing organization such as the Marin County Codes Advisory group to meet with representatives of the Marin Association of Realtors to discuss the feasibility of standardizing the pre-sale inspection process.

Response: My understanding is that the Marin County Codes Advisory group has taken up this recommendation and appointed a subcommittee to work on the issue of standardizing reports.