



COUNTY OF HUMBOLDT

For the meeting of: 5/23/2023

File #: 23-637

To: Board of Supervisors

From: Human Resources

Agenda Section: Departmental

Vote Requirement: Majority

SUBJECT:

Sustained Finding of Violation of the Board of Supervisors Code of Conduct

RECOMMENDATION(S):

That the Board of Supervisors:

1. Receive, file and discuss the attached summary of a sustained finding of a violation of the Board of Supervisors Code of Conduct as required.

SOURCE OF FUNDING:

General Fund and Liability Fund

DISCUSSION:

At the April 4, 2022, Board of Supervisors meeting, the Humboldt County Board of Supervisors approved amendments to the Humboldt County Board of Supervisors Code of Conduct. The approved amendments to the Code of Conduct included the creation of a Committee (comprised of the County Administrative Officer, Director of Human Resources and County Counsel) to determine if a formal investigation should be initiated based upon a complaint of a violation of the Board of Supervisors Code of Conduct.

On December 13, 2022, the County Administrative Officer received a letter from the Cher-Ae Heights Indian Community of the Trinidad Rancheria Tribal Council alleging misconduct by Fifth District Supervisor, Steve Madrone at a March 29, 2022 Project Development Team meeting. The Committee convened quickly and determined that a formal investigation into whether violations of the Board of Supervisors Code of Conduct occurred was appropriate. The Director of Human Resources subsequently initiated an investigation with a neutral third-party investigator. The investigator completed the investigation and determined that the allegations were “unfounded in part, not sustained in part, and sustained in part.” The findings are summarized in the attached investigation summary. Per the third-party investigator, a “Sustained” finding indicates that the investigation established that there was sufficient evidence to establish that the act occurred.

Per the Board of Supervisors Code of Conduct:

“A sustained violation of this Code of Conduct and Ethics by a Board member will be agendized for open session consideration, which will include notifying the Board member subject to the allegation(s) of the allegation(s) and providing the Board member an opportunity to present information.

Following completion of the investigation process resulting in sustained allegations against a Board member, Board action is limited to public censure, and such action shall require the affirmative vote of at least two-thirds of the Board members present and voting.”

This agenda item serves to meet the requirement outlined above and to initiate the open discussion with the Board of Supervisors.

After completion of the investigation, the County of Humboldt received additional correspondence from the Trinidad Rancheria on April 24, 2023. This included a copy of an April 24, 2023 letter sent from Caltrans in response to an April 17, 2023 letter from Supervisor Madrone expressing his concerns related to the project. This letter was provided to the third-party investigator who determined that this information did not change any of the findings of the investigation.

In the December 13, 2022 letter received by the County Administrative Officer, the Trinidad Rancheria indicated that they have some requests. These requests are outlined in the attached letter and below.

1. Formal Government to Government Consultation.
2. Affirmation and acknowledgement from the Board of Supervisors that all federally recognized Indian Tribes, including Trinidad Rancheria, possess equal rights and status under federal and state law.
3. Initiation of an investigation into the comments made by Supervisor Madrone discriminating towards the Trinidad Rancheria.
4. Board of Supervisors appointment of a new representative to the Trinidad Rancheria Project Development Team (“PDT”) who will represent the county with an objective and open mind and not look for ways to derail this project.

Regarding Request #1, county personnel have been in ongoing communication with the Trinidad Rancheria through this process; however, the Board could consider a formal process for communication between the County of Humboldt and the Trinidad Rancheria.

Regarding Request #2, county personnel do not have the authority to compel the Board to make such a statement, but it is presented to your board for discussion.

Request #3 was completed and the outcome is being presented to the Board.

Regarding Request #4, the Director of Human Resources contacted Caltrans for more context related to this request as there is no indication the Board has the authority to appoint members of the PDT. In discussion with Caltrans personnel, it was explained that there are actually two (2) separate, but related, project teams. There is a PDT that is overseen by Caltrans. This PDT works in conjunction with the Trinidad Rancheria, but it is open for the public to attend and does not have a specific county representative chosen by the Board. There is a second project team that is overseen by the Trinidad Rancheria. According to Caltrans personnel, the Trinidad Rancheria Project Team would have the authority to not include participants as they see fit and also does not have a specific county representative chosen by the Board

Lastly, the leadership from the Trinidad Rancheria have communicated a desire to have Supervisor Madrone make a formal apology in an open meeting. Again, county personnel cannot compel such an action; however, in the interest of transparency between the County of Humboldt and the Trinidad Rancheria, this information is being provided to Supervisor Madrone and the Board for discussion.

FINANCIAL IMPACT:

The investigation has cost \$20,185 and is paid through the Liability Fund. In addition there are costs related to staff time.

STRATEGIC FRAMEWORK:

This action supports the following areas of your Board's Strategic Framework.

Core Roles: N/A

New Initiatives: N/A

Strategic Plan: N/A

OTHER AGENCY INVOLVEMENT:

N/A

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Per the Board of Supervisors Code of Conduct, the action before your board is the only action that can be taken when there is a sustained finding. It would not be inappropriate for the Director of Human Resources, County Administrative Officer and County Counsel to recommend, either for or against, public censure of Supervisor Madrone, as this authority resides with the Board of Supervisors.

ATTACHMENTS:

1. 2022-06-07 Letter to Humboldt County Board of Supervisors
2. 2022-12-13 Letter to Humboldt County Administrative Officer
3. Executive Summary of Investigation
4. 2023-04-24 Caltrans Response Letter and Attachments
5. Board of Supervisors Code of Conduct and Ethics

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

File #: 23-637

Meeting of: N/A

File No.: N/A