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Esperanza Colio Warren

COUNTY COUNSEL:
Gregory Priamos

CLERK OF THE BOARD:
Vanessa Delgado

**Agenda Item
Special Meeting of the
Board of Supervisors
Tuesday, October 21, 2025**

Item Number: 1.A

MEETING DATE: 10/21/2025

DEPARTMENT: COUNTY ADMINISTRATION OFFICE

AGENDA ITEM PREPARER: Gregory Priamos

DEPT HEAD/DIRECTOR: Esperanza Colio Warren

SUBJECT:

COUNTY ADMINISTRATION OFFICE AND COUNTY COUNSEL - E. COLIO WARREN AND GREGORY PRIAMOS

Discuss and provide direction to the County Administrative Officer and County Counsel with respect to next steps or actions to review the policies, procedures, and processes of the Auditor's Office which led to the fraudulent payment of \$696,602.02 in County funds on October 15, 2025 (later recovered) and to inform the Board of Supervisors of reforms that must be made to ensure against any further fraud, waste, and abuse.

SBC FILE NUMBER: 119 and 160

AGENDA SECTION:

REGULAR AGENDA

BACKGROUND/SUMMARY:

Based on the information developed to date, the County Treasurer alerted Administration of the suspected fraudulent payment of \$696,602.02 processed on October 15 after being alerted by a bank. The payment request came from someone posing as a construction contractor as part of a suspected phishing scam. Based on information presented from the Auditor's Office, there was a breakdown in the auditor's fraud prevention procedures which led to the loss. The County Treasurer's Office and the bank immediately filed a fraud claim with the Federal Bureau of Investigation and requested a reversal of the electronic money transfer. On Friday, October 17, 2025, the Treasurer notified the Board that the transfer had been reversed, and that all of the County's money had been recovered.

It is important to note that the matter remains under investigation, and much is still not known. The San Benito County Sheriff's Department has the lead in the criminal investigation and has involved the Federal Bureau of Investigation.

This is now the second time in two years that the County has been the victim of fraud involving significant sums of taxpayer money. As you will recall, on September 9, the Board unanimously authorized the issuance of a Request for Proposals (RFP) for accounting firms to provide forensic auditing services to investigate how the County's internal financial processes, procedures, and controls failed to detect embezzlement, to conduct an assessment of the auditor's internal controls, and to recommend policy reforms for the County. You may recall that the auditor personally appeared before the Board at its meeting of September 9 and argued against the issuance the RFP and considered it a waste of taxpayers' money.

The prior case involved the financial loss of \$360,755.79 due to fraudulent and embezzlement activities involving two employees of the San Benito County Library. It is highly unlikely, if not certain that the County will never recover those taxpayers' money. Unfortunately, the fraud continued undetected for sixteen (16) months until a third party vendor called the County Administrative Office asking who they needed to speak with about the County Library's delinquent account. The embezzlement was never detected by the County Auditor's Office, which authorized the payments and the fraud likely would have continued undetected had it not been for the notice from the third party vendor.

The Request for Proposals (RFP) was issued on October 10, and the responses are due on October 31. The RFP concerns a forensic audit of policies, processes, and procedures within the Auditor's Office different from those which failed on October 15.

It is important to note that the auditor is a separately elected official and does not report to the Board of Supervisors. The Board of Supervisors does not have the authority to control, directly or indirectly, the manner in which the auditor performs his duties or to exercise management over the auditor. The Board has no authority to discipline or remove the auditor. That power is entrusted to the voters through the recall process or by the judicial removal process initiated by a grand jury accusation.

While the available options are limited, the Board may:

(1) Report the matter to the California State Controller's Office and request that they immediately open an investigation and conduct an independent audit of the Auditor's Office. Government Code Section 12422.5(e) specifically states that: "The Controller may audit any local agency for purposes of determining whether the agency's internal controls are adequate to detect and prevent financial errors and fraud."; or

(2) Authorize the issuance of another request for proposals for a forensic audit of the Auditor's Office but focused on the specific policies, processes, and procedures which failed here. The RFP would necessarily seek specific, actionable recommendations for improved financial controls and policy reforms, aligned with California's regulations and standards for counties to establish internal financial controls aimed at preventing embezzlement, theft, and fraud. These are primarily governed by California Government Code §12422.5 and supported by detailed guidance from the State Controller's Office. More specifically, the Consultant will review the internal control guidelines developed by the State Controller specifically applicable to San Benito County to determine why they were not being followed by the Auditor's Office here; or

(3) Bring an action in San Benito County Superior Court seeking a court order compelling the auditor to properly perform the duties of his office under state law.

FISCAL IMPACT:

None at this time. If the Board elects to pursue another forensic audit, there will be a cost to the County. If the State elects to conduct an audit, then those costs may be borne by the State, not the County. There would be cost of litigation if the Board were to bring an action against the auditor.

STAFF RECOMMENDATION:

Direct the County Administrative Officer and County Counsel to immediately report the matter to the California State Controller's Office and request that they immediately open an investigation and conduct an independent audit of the Auditor's Office pursuant to the State Controller's authority under Government Code Section 12422.5(e). There have now been two failures by the auditor's office within 2 years resulting in the loss of over \$350,000 in taxpayers' money and the potential loss of another \$697,000 bringing the total potential loss to \$1,100,000. Since the State Controller is statutorily responsible for determining whether the auditor's internal controls are adequate to detect and prevent financial errors and fraud, and for determining why they were not being followed by the auditor in this instance, Staff recommends Option 1.

ATTACHMENTS: