San Luis Obispo County

Grand Jury

Addendum to The 1997-1998 Final Report

Responses

to

1997-1998 Grand Jury Report

Compiled by

1998-1999 Grand Jury

Forward

The reports of the activities of the Grand Jury are usually finished by March or April and prepared for printing during May, so the final report can be printed before the June 30th end of the Grand Jury's term. The affected agencies have up to 90 days to make their response to the report, which falls in the next Grand Jury's term. The compilation of these responses is one of the first duties of this Grand Jury.

George Galvan

Foreman, 1998-1999

Grand Jury

Responses
to the
1997-1998
Grand Jury Final Report

Health, Education and Social Services

San Luis Obispo County Juvenile Services Center

Law and Justice

Holding Facilities Maintained by the Police Departments of the Cities Within San Luis Obispo County

El Paso de Robles School of the California Youth Authority

California Mens Colony Annual Review

San Luis Obispo County Sheriff's Department Gang Task Force Review

San Luis Obispo County Sheriff's Department and Jail Facilities

City Plans and Administration

Parking Space Possessory Interest-San Luis Obispo County

Flood Control Problems in Los Osos

County Plans and Administration

Inquiry Into the Awarding of Ambulance Service Contract for The Southern Ambulance Service District Area of San Luis Obispo County

Inquiry into Personnel Grievances - Oceano Community Service District

Vacation Rentals (Transient Occupancy Tax - San Luis Obispo County)

received
8/18/98

PROBATION DEPARTMENT

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO, CALIFORNIA 93408

TO: San Luis Obispo County Grand Jury
Attention: Foreman
1120 Mill Street
San Luis Obispo, Ca. 93408

DATE: 8/10/98

FROM: John C. Lum, Chief Probation Officer
San Luis Obispo County
Probation Department

This report is in response to the Grand Jury report dated May 27, 1998 and subsequent recommendations. The Grand Jury made recommendations in the areas of staffing, safety and security, and construction and remodeling. Each recommendation is responded to below:

Excessive caseloads of Deputy Probation Officers assigned to Juvenile Services and the need for private office space

The number of referrals for services exceeds the available funding for staffing needs. The Department has taken the following action to address these needs: Funds from the Comprehensive Youth Services Act have been utilized to add four Probation Officers to enhance case services and implement a case management system to prioritize services for youth and their families. The department has also implemented a policy capping all caseloads to manageable sizes, and we are placing the excess cases on an unsupervised, or bank, caseload. We have also funded Americorp workers to provide additional services to our youth. The department actively writes grants to alleviate the caseload issues, and most recently we have formed a workgroup to look at all supervision policies. Office space remains a challenge for the department. In FY '95-96 the county placed a modular building at the Juvenile Services Center to assist in alleviating office space problems. The department encourages the sharing of office space whenever possible, as well as telecommuting, and utilizing office space in various areas of the county within other departments. With the exception of our intake officers, the majority of our Probation Officers work in the community rather than in the main offices. Request for Capital Improvement funds for additional office space have not been recommended for funding during FY'98-99.

Mental Health Care

The Health Agency and the Probation Department meet monthly for work on the health and mental health care provisions within the Juvenile Hall. The Departments are also meeting weekly on a plan to meet the sub-acute treatment needs of youth inappropriately housed within the Juvenile Hall. The Probation Department recognizes the numbers and severity of mentally ill youth coming into our care and requested and received a Treatment Coordinator position for the department beginning FY'98-99. The Mental Health staff housed at Juvenile Hall provide psychiatric crisis services while on duty. It is the Probation Departments opinion training

Juvenile Services Officers to provide such intervention is out of the course and scope of their duties. Juvenile Services Officers are trained in de-escalation skills and general crisis intervention techniques.

Basic food handling training for juveniles working in the kitchen and sharps counts

The need for basic food handling training for juveniles working in the kitchen at the Juvenile Hall has been addressed with the kitchen staff, and is a part of our policy manual. Signs addressing such needs have been posted in the kitchen and bathrooms adjacent to the kitchen. During the time of the Grand Jury's inspection, it was the policy of the Juvenile Hall to have a small number of metal utensils (forks and spoons) out on counters for general use. We have re-implemented and expanded a county policy for all utensils (locked and unlocked) in the kitchen. There is a log book in the kitchen office and each staff logs the count at the beginning and end of their shift.

Supply and repair of sports equipment

The supply and repair of sports equipment has been augmented through the Friends of JSC volunteer program. This program has been an invaluable asset to the youth at Juvenile Hall. They have provided many games, equipment, and hours of volunteer time for the youth incarcerated in Juvenile Hall.

Security of desk areas; view panels for bathroom doors; and securing wire baskets

Minors do not have access to the desk areas discussed in the report. They are supervised closely at all times when in the reception area, and the desks on the units are locked when not being utilized. All pens and pencils used at the main control desk are on a count system, which is done at the beginning and end of each shift. View panels for bathroom doors have not been provided as of this date. This is part of the ongoing security projects at the Juvenile Hall and will be addressed during FY '98-99. The wire basket shelving is secured to the wall pursuant to earthquake standards. Further securing of sliding wire baskets will be discussed and addressed with the General Services staff.

Construction and remodeling

The Capital Improvement Projects for FY '98-99 includes a study and design project to remodel the sallyport and intake area of the Juvenile Hall. This project will address the need for an additional and private medical exam area, storage needs, office space within the Juvenile Hall, and a more secure entry area. The remodeling of the safe room has been completed.

On behalf of the Probation Department I would like to extend my sincere thanks to members of the 1997-98 Grand Jury who provided such a complete and thoughtful review of the Juvenile Services Center. Should you have any further questions regarding this response please don't hesitate to call.

cc. David Edge, County Administrative Officer
Honorable Barry Hammer, Presiding Judge
Honorable Donald J. Umhofer, Juvenile Court Judge
Santos Arrona, Chair, Juvenile Justice Commission

1997/
1998

Law and Justice

Holding Facilities Maintained by the Police Departments
of the Cities Within San Luis Obispo County

El Paso de Robles School of the California Youth Authority

California Mens Colony Annual Review

San Luis Obispo County Sheriff's Department and Jail Facilities

Holding Facilities of the police departments of the cities within San Luis Obispo County

The Grand Jury conducted visitations of all of the incorporated cities' detention facilities within San Luis Obispo County, with the exception of Morro Bay, which uses the County jail Facility. Generally, the Grand Jury found conditions to be appropriate to maintaining the safety and security of boyh police and prisoner personel.

Optimum surveillance technology would suggest both audio and video monotoring of Jail cells, and the Grand Jury recommended such as a standard where only a single method was currently in use.

A recommendation was also made that the ageing and delapidated building housing the Paso Robles Police Department and holding facility be replaced as soon as possible.

received
9-30-98

CITY OF ATASCADERO
POLICE DEPARTMENT

DENNIS J. HEGWOOD
Chief of Police

September 22, 1998

San Luis Obispo County Grand Jury
Attention: Foreman
1120 Mill Street
San Luis Obispo, CA 93408

Dear Ms. Wittstrom:

We are pleased to have received the favorable report on your inspection of our holding facility. While we do have video monitoring of the common jail area we are aware that video monitoring of individual cells would enhance prisoner surveillance.

Integration of individual cell video monitoring will be considered at a later date if funds become available.

Respectfully,

DENNIS J. HEGWOOD
CHIEF OF POLICE

John Couch
JOHN COUCH
LIEUTENANT, SPECIALIZED SRVICES

DJH:JC:ps

5505 EL CAMINO REAL • POST OFFICE BOX 911 • ATASCADERO, CA 93423
General Business: (805) 461-5051 Administrative Services: (805) 461-5053

received

CITY OF GROVER BEACH

POLICE DEPARTMENT

ERNIE KLEVESAHL
CHIEF OF POLICE

September 22, 1998

San Luis Obispo County Grand Jury
Attention: Foreman
Cindy Wittstrom
1120 Mill Street
San Luis Obispo, CA 93408

Dear Ms. Wittstrom:

In accordance with Section 933 of the California Penal Code, I am complying with the mandate to respond to the 1997-98 San Luis Obispo County Grand Jury report entitled "Holding Facilities Maintenance by the Police Departments of the Cities within San Luis Obispo County."

I have read and evaluated the Grand Jury Report's Findings, Conclusions, and Recommendations. Per Section 933 of the Penal Code, I ". . . shall comment on the findings and recommendations pertaining to matters . . ." contained in the report.

FINDINGS

The City of Grover Beach holding facility was built in 1981. Each cell consists of a bench, a security mirror and stainless steel lavatory facilities enclosed behind heavy steel doors. The entire holding facility was repainted in off-white enamel which is a change from the old mustard yellow. This brightened the facility considerably.

RECOMMENDATIONS

1) *When funds become available, video monitoring of the Grover Beach facility will be considered. The current policy of audio monitoring with regular visual checks has served the Department well.*

Sincerely,

Ernest M. Klevesahl Jr.

Ernest M. Klevesahl, Jr.
Public Safety Director

EMK/wp

grandjury.res.998.wpd

711 ROCKAWAY AVENUE • 93433 • P.O. BOX 365 • 93483 • GROVER BEACH, CA • (805) 473-4511
FAX (805) 473-4515

received
7-8/98

City of San Luis Obispo

POLICE DEPARTMENT
Post Office Box 1328 • San Luis Obispo, CA 93406-1328 • (805) 781-7317

June 29, 1998

San Luis Obispo County Grand Jury
Attn: Foreman
1120 Mill Street
San Luis Obispo, CA 93408

Dear Foreman Wittstrom,

The Department has reviewed the findings of the Grand Jury regarding our holding facility. We concur with your findings and would note that the modifications you reference will increase our effectiveness and efficiency. As funds are available, video monitoring in the booking area will be added to the holding cells.

Thank you for your comments and observations.

Sincerely,

James M. Gardiner

JAMES M. GARDINER
CHIEF OF POLICE

JMG:jsb

"Service, Pride, Integrity"

City of Pismo Beach

POLICE

Community Pride ★ Community Service

Dan Boon
Chief of Police

received
9-22-98

September 16, 1998

Cindy Wittstrom, Grand Jury Foreman
County Government Center
San Luis Obispo, California 93408

Dear Ms. Wittstrom:

I wanted to take a few moments to thank you for your letter of June 19, 1998, which outlined the Grand Jury's findings of their inspection of the Pismo Beach Police Department's Holding Facility. At the time of your inspection, our department was well into the construction of our new facility. I am pleased to report that we should be moving into the new facility within the next 45 days. Our new facility will initially be equipped with audio monitoring equipment. Staff is proceeding with plans to use Federal Grant Funds to purchase and install video monitoring equipment.

If you should have any additional questions concerning the department, please feel free to contact me at me at 773-7028.

Sincerely,

Dan Boon
Police Chief

1000 Bello Street Pismo Beach, CA 93449 (805) 773-2208 fax (805) 773-3505

PASO ROBLES POLICE DEPARTMENT

Dennis Cassidy
Chief of Police

received
6-30-98

June 22, 1998

San Luis Obispo County Grand Jury
Atten: Cindy Wittstrom, Foreman
1120 Mill Street
San Luis Obispo, Ca. 93408

Dear Mrs. Wittstrom and Jury members,

Thank you for your letter dated June 19 and the attached report. We fully concur with your findings and assessment concerning the antiquated condition of our facility and your recommendations.

I am pleased to inform you that the citizens of Paso Robles have rallied in support of their public safety Departments and the City by passing measure D in the recent election. This measure identifies 38 million dollars for public facilities which include 12.5 million dollars for a new public safety facility.

The City Council has identified the public safety facility as a priority project and the design and architectural planning will probably begin immediately. Completion of this project however will probably take several years due to the complexity of such a project. I am pleased however to see the light at the end of the tunnel.

I thank the Grand Jury for their valuable input and appreciate any and all patience you can afford us as this project evolves. I look forward to more of the same open relationship that we have developed and welcome your future inquiries.

Yours for Professional Law Enforcement,

D. Cassidy

Dennis Cassidy, Chief of Police

STATE OF CALIFORNIA
DEPARTMENT OF THE YOUTH AUTHORITY
PETE WILSON, Governor
EL PASO DE ROBLES YOUTH CORRECTIONAL FACILITY
P. O. Box 7008
Paso Robles, CA. 93447-7008
Telephone (805) 238-4040
FAX: Admin. (805) 239-7492

September 25, 1998

San Luis Obispo County Grand Jury
Attention: Foreman
1035 Palm Street
San Luis Obispo, CA 93401

received
9-29-98

This is a response to the Grand Jury inspection report dated June 19, 1998 of El Paso de Robles Youth Correctional Facility.

Your recommendations were:

1) *The construction of a new infirmary should begin immediately.*

Response

El Paso de Robles Youth Correctional Facility has been approved for a new infirmary. In October of 1998 bids for the construction of the infirmary will once again be sent out by the Department of the Youth Authority. Once a bid is selected and approved, start-up meetings will begin with the institution.

2) *Covered sallyports to the grounds should be provided. Personnel assigned to them should check all persons and vehicles entering or leaving for unauthorized persons and contraband. Procedures for the issuance of keys should be consistent for all personnel according to the need and safety*

Response

a) We will look into the possibility of a covered sallyport for personnel.

b) Policies are in place that all incoming and outgoing vehicles are to be checked by security personnel. The issue has been brought up already with the Chief of Security to ensure that all vehicles and persons in vehicles are checked coming into and leaving the facility.

c) On September 24, 1998, the first statewide key committee met. It will be the practice of all facilities that all personnel will obtain their keys from a secure area in every facility coming into work and returning their keys to a secure area on departure. However, several managers of a facility will be allowed to carry their set of keys in and out of the facility.

I would also like to thank the Grand Jury for their comments on the staff, volunteers and operation of the facility. Your report has been past on to all managers and supervisors in the facility and will be shared with line staff.

Sincerely,

Kate Thompson

KATE THOMPSON
Superintendent

KT:mat

STATE OF CALIFORNIA

PETE WILSON, Governor

DEPARTMENT OF CORRECTIONS
CALIFORNIA MEN'S COLONY
SAN LUIS OBISPO, CA 93409

received
7/21/98

July 13, 1998

San Luis Obispo County Grand Jury
Attention: Foreman
1120 Mill Street
San Luis Obispo, CA 93408

Dear Ms. Wittstrom:

As directed, I am responding directly to the Grand Jury relative to the issues raised in their annual review of the California Men's Colony.

Recommendation #1: Paint the institution more appealing colors

The colors selected for the institution are based on several factors that are primarily practical and fiscal in nature. Paint is chosen for ease of application and its potential to allow us to prepare a close match for on-going maintenance purposes. If a particular color is discontinued, consideration is also given to a choice that has the ability to be covered with a new hue with minimal application. Obviously, because the colors chosen are not in high demand by the general public, we are often able to purchase the paint at a discount. As is always the case, we are ever-observant of the need to reduce the cost to the taxpayer of maintaining a prison.

Philosophically, this recommendation may receive an equal or more persuasive opinion in the opposite direction. The current "tough on crime" attitude that permeates the public opinion polls appears to be leaning towards a less comfortable atmosphere for the incarcerated. Although this is not by any stretch our rationale for choice of colors, the tact suggested by the Grand Jury may cause a less positive reaction by the general public.

Recommendation #2: Increase the number of bilingual guard personnel

The State of California offers a pay incentive of $60 a month for individuals that routinely utilize their second language in the work environment. This incentive is one of the primary recruitment tools for attracting bilingual employees. The listing of those that receive the pay is not representative of the amount of employees that are bilingual, but is the only tool with which we can measure the skill. Since the Grand Jury visit, we have given an additional examination for bilingual pay. Only two individuals applied and they were both added to our current list. Because the recruitment and hiring of Correctional Officers is centralized and new applicants have some flexibility in their choice of institution assignment based on vacancies, we are limited in our ability to hire at this entry level. At higher ranks, CMC continues to strive towards its goal for a diversified work force.

In order to increase the use of those employees that are designated bilingual, I have directed my Institution Personnel Officer to distribute a bilingual pay list to appropriate Division Heads on a regular basis.

Recommendation #3: Grooming Standards

New grooming standards have been fully implemented. With the exception of a few inmates that have refused to comply, the inmate population at CMC is neatly groomed.

As is always the case, I appreciate the effort and interest exhibited by members of the San Luis Obispo County Grand Jury during their assignment. Their suggestions for improvement are of great importance to me. If you have any questions or concerns, please feel free to contact me at (805)547-7901.

Sincerely,

W. Duncan

W. A. DUNCAN
Warden

County of San Luis Obispo

received
8/18/98

Edward C. Williams
Sheriff-Coroner
P.O. Box 32
San Luis Obispo, CA 93406
(805) 781-4540

August 14, 1998

The Honorable Barry Hammer
Presiding Judge of the Superior Court
San Luis Obispo County Superior Court
County Government Center, Room 220
San Luis Obispo, CA 93408

Dear Judge Hammer:

I have reviewed the findings of the 1997-98 San Luis Obispo County Grand Jury final report, concerning their visit to our facility, and respond to their recommendations as follows:

1. Patrol staffing should be adequate to provide timely response and adequate back-up capability. There should be a minimum of two patrol units in service per region per shift, which seems possible with current staffing.

   I concur with the recommendation of the Grand Jury that "there should be a minimum of two patrol units in service per region per shift... with current staffing." In most shift schedules we are able to accomplish such deployment but shift relief factors as; employee injuries, mandatory training, sick leave and vacation time impact staffing capabilities.

   In most instances, we have sufficient personnel deployed "to provide timely response and adequate back-up..." Due to geographical size of the unincorporated area of the county, response to calls for service can not always be timely and on occasion, back-up assistance from other law enforcement agencies is requested.

   In order to ensure a timely response to calls for service and provide "adequate back-up", an increase in the number of personnel would be required. The Sheriff's Office will continue to address personnel needs through the budget process.

2. Qualified personnel should be available to provide medical and psychiatric services on a twenty-four hour, seven days a week basis, with provisions for continuity of treatment.

   I concur with the recommendation of the Grand Jury. As in previous years, the Sheriff's Office continues to be supportive of an increase in Health Department staffing for the jail.

   The jail operates in compliance with Title 15 guidelines. Individuals in critical need of evaluation are seen by the on-call crisis worker, as needed, during hours Health Department jail staff are unavailable. All inmates, who are in need of psychiatric care, are evaluated within 24 hours.

Medical evaluations are required on arrestees, when medical conditions indicate such evaluation is prudent, prior to being booked in jail. Inmates in need of immediate medical attention are transported to the hospital when on-site medical personnel are not available or treatment is beyond their ability.

3. A necessary alteration to the ventilation system of the Mail Jail needs to be addressed to permit better containment of fire and smoke hazards.

   I concur with the recommendation of the Grand Jury. The current ventilation system does not address the concerns of the Grand Jury. Currently, in the event of smoke or airborne chemical agents being present, the ventilation system would be shut off to reduce recirculation and exhaust fans used to evacuate each deck.

   The ventilation system needs alterations to isolate each housing deck and an outside air bypass to introduce fresh air quickly, if needed.

   The Sheriff's Office will continue to request facility needs through the capitol improvement project process. This recommendation requires expenditures of general fund monies and is within the purview of the Board of Supervisors.

4. A regular program to upgrade computing capabilities in the administration section of the Main Jail should be initiated.

   I concur with the recommendation of the Grand Jury. The specific item of concern is the "speed" of the "Megan's Law" computer which allows public access to files on sexual predators. The system and computer, a 486/25 is slow due to the size of the file and accessing of the file from the computer network. Modifications to the system may increase the speed that one can access files but as the data base expands, the volume of data will slow down accessibility.

   The Sheriff's Office will examine the needs of the system. If an upgrade is required of the system, the equipment needs will be requested through the budget process. Equipment needs require expenditure of general fund monies and is within the purview of the Board of Supervisors.

5. The Women's Facility maximum security area should have video monitoring capabilities.

   I concur with the recommendation of the Grand Jury. There is one existing video monitoring camera in the women's facility maximum security area and an additional camera is required to ensure full coverage of this area. An additional camera is planned to be installed fiscal year 1998/1999 and will be connected to the existing monitoring system in Main Jail control.

6. Security in the Dispatch/Emergency Operations Center should be upgraded to provide bulletproof windows and doors. Adequate locking devices should be installed in this area, such as are utilized in the jail facility.

   I concur with the recommendation of the Grand Jury. The Dispatch area of the Sheriff's Office within the Emergency Operations Center is inadequate.

The building is owned by Pacific Gas and Electric, who occupies the upper portion of the building. The first floor is controlled by the County Administrative Office through the Office of Emergency Services. The Sheriff's Office is allocated two areas of the first floor, consisting of dispatch and watch commander rooms.

The Office of Emergency Services sets policy pertaining to the entry of the building and when the facility will be operational as an Emergency Operations Center.

7. The County Courthouse alarm board should be monitored as long as there is activity within the monitored portion of the building. The recommendations of the 1996-1997 County Grand Jury regarding the holding facilities at the County Courthouse should be carried out, as follows:

   a. Two areas especially designated for male and female minors, which will segregate them from adult and mental inmates.
   b. An area designated for Atascadero State Hospital patients who have been designated as mentally ill.
   c. An area for female offenders appropriately separated.
   d. An adequate holding area for all other male inmates regardless of court calendar.

   I concur with the recommendation of the Grand Jury.

   The Sheriff's Office has continually maintained the holding facilities at the county courthouse are inadequate in size and is unable to segregate offenders appropriately. The Sheriff's Office will continue to support expansion of the holding facilities at the county courthouse.

   This recommendation requires the expenditure of funds and is within the purview of the Board of Supervisors.

   The county courthouse alarm board is located in the control room of the holding facility and is designed for the security of the courts, bailiffs and inmates. The alarm is monitored as long as there are inmates present in court or the holding facility. Expansion of hours the alarm board is monitored should be incorporated into the court security plan and related funds.

Sincerely,

Nicholas A. Marquart

Nicholas A. Marquart
Acting Sheriff-Coroner

NAM/mf

cc: Cindy Wittstrom, Foreman, Grand Jury
Wayne Hall, Administrative Office

City Plans and Administration

Parking Space Possessory Interest-San Luis Obispo County

Flood Control Problems in Los Osos

received
9-2-98

County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011

DAVID EDGE
COUNTY ADMINISTRATOR

TO: GEORGE GALVIN, GRAND JURY FOREMAN

FROM: PAUL HOOD, PRINCIPAL ADMINISTRATIVE ANALYST

DATE: SEPTEMBER 1, 1998

SUBJECT: ADVANCED COPY OF THE GRAND JURY REPORT ON PARKING SPACE POSSESSORY INTEREST TAXATION SAN LUIS OBISPO COUNTY

On June 24, 1998, the Grand Jury issued a report on the above subject. A consent item will appear on the Board of Supervisors' Meeting Agenda on September 22, 1998, responding to the Grand Jury's report.

The attached Grand Jury report response is provided for you in advance of the item appearing on the Board of Supervisor's Meeting Consent Agenda. Please call me if you have any questions.

County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011

DAVID EDGE
COUNTY ADMINISTRATOR

DRAFT

TO: **BOARD OF SUPERVISORS**

FROM: **PAUL L. HOOD, PRINCIPAL ADMINISTRATIVE ANALYST**

DATE: **SEPTEMBER 22, 1998**

SUBJECT: **RESPONSE TO THE 1997-98 GRAND JURY REPORT ON PARKING SPACE POSSESSORY INTEREST TAXATION, SAN LUIS OBISPO COUNTY**

Summary

This is the written response to the 1997-98 Grand Jury Report on Parking Space Possessory Interest Taxation. The Board of Supervisors must approve a response to the Grand Jury's report in order to comply with the legal reporting requirements of Section 933 (C) of the California Penal Code. The Grand Jury's recommendations and responses to those recommendations are contained in this Board item.

Recommendation

It is recommended that the Board of Supervisors approve this response to the 1997-98 Grand Jury Report on Parking Space Possessory Interest Taxation and direct the Clerk to forward it to the Presiding Judge of the Superior Court.

Discussion

On June 24, 1998, the Grand Jury released a report (attached) on Parking Space Possessory Interest Taxation. As the property management agency, the County Department of General Services allocates parking spaces to all County departments based on the ratio of management employees in a specific department as compared to the total number of management employees in County employment. Based on this the Department of General Services has responded to the conclusions contained in this Grand Jury Report. The Department's response is attached as **Exhibit A.**

This report contained four (4) recommendations, which, along with the associated responses, are noted below:

Recommendation #1:

The Board of Supervisors should order a survey to determine the full cost of administering the possessory interest tax on the Government Center parking spaces. This tax should be eliminated if it cannot be demonstrated to be cost effective under law and fact.

> **Response:** Imposition of the possessory interest tax is within the legal authority of the County Assessor. Even if the Board of Supervisors ordered a survey which resulted in a determination that imposition of the tax was not cost effective, the Board does not have the legal authority to eliminate the tax.

Recommendation #2:

The Government Center parking spaces should be assigned only to those county employees/officials who can demonstrate a benefit to the county (the public good) from their exclusive use of the space.

> **Response:** As mentioned above, County Departments are allocated a block of parking spaces based on the ratio of management employees in a specific department as compared to the total number of management employees in County employment. Individual parking spaces are then allocated to individual employees by those departments. The allocation criteria is left up the individual department heads.

Recommendation #3:

The Board of Supervisors should direct the establishment of policy to ensure that limited county parking spaces are assigned for optimum benefit to the county. Prior to assignment, County employees/officials should be required to submit a factually based application that their use of the parking space would provide this optimum benefit to the county. Policy should include the following:

a. Place emphasis upon assignment to employees who are most apt to have daily recurring need to move in and out of the space and/or whose use would most likely result in the saving of substantial productive time.

b. The elimination of assignment based upon bureaucratic power positions or historical precedent.

c. Eliminate the assignment of parking spaces to individuals who merely use the space to warehouse their vehicle for the whole work day. Exceptions could be made where there is an overriding concern such as safety or welfare, employment contract requirement, etc.

Response: We agree with the response by the Department of General Services that optimal benefit should be defined as benefit to the public. Departments' general policy of assigning parking spaces to upper management and supervising clerical positions generally benefits the public. These individuals also tend to be the employees that attend a large number of off-site meetings during the workday and hence can be more productive if they do not need to continually search for on-street parking.

Recommendation #4:

Investigate the establishment of additional downtown parking structures. Also consideration should be given to additional parking stations that are distant from downtown and which would be coordinated with a shuttle system. Public reports indicate that the city currently plans to extend the capacity of its existing parking stations. The County should consider a plan to coordinate and cooperate with the city effort for the mutual good of all.

Response: As mentioned in the Department of General Services response, the County has long recognized the increasing need for employee parking in the downtown area. The County will continue to work with the City of San Luis Obispo to address this need, keeping in mind the suggestions made by the Grand Jury.

Other Agency Involvement:

The Department of General Services and the Assessor's Office are involved in the parking space and/or the possessory interest tax issue.

Financial Considerations

The possessory interest tax generate approximately $2,500 per year in revenues for the County of San Luis Obispo.

EXHIBIT A

COUNTY OF SAN LUIS OBISPO

department of general services

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5200

DUANE P. LEIB, DIRECTOR

TO: PAUL HOOD, ADMINISTRATION

FROM: DUANE P. LEIB, GENERAL SERVICES

DATE: JULY 22. 1998

SUBJECT: GRAND JURY RESPONSE-REPORT ON PARKING SPACE POSSESSORY INTEREST TAXATION

The Department of General services responds to the specific statements in the Grand Jury report that relate to the assignment of parking spaces and the overall availability of spaces in the Government Center area.

In the report's **CONCLUSIONS** it is stated:

1. "there is no policy statement available to the public, from the Board of Supervisors, delineating specific guidelines for the exclusive assignment of County owned parking spaces....". Also, "there is no clearly defined procedure to establish that the assigned spaces are given primarily for the public good,....".

RESPONSE

The procedure to allocate spaces to departments in the downtown San Luis Obispo area is as shown in an exhibit attached to the Grand Jury report. A calculation is made based on the ratio of management employees in a specific department to the total number of management employees in County employment. This ratio is then applied to the total number of available parking spaces. The total number of parking spaces available is insufficient to provide for all employees.

Once the allocation by department is known, the individual departments are allowed to decide who is assigned a parking space. They can assign spaces to their top managers or to the clerical. The choice is up to the department. For the most part, departments assign parking spaces to their top management employees. In some instances, spaces are assigned to clerical staff. The Department of General Services is not supportive of centralizing the assignment decision which would reduce an individual departments discretion at controlling their own operations. The current system allows the County to control parking resources with limited oversight. Centralizing the assignment of spaces would require an ability to police and enforce, which currently is non-existent.

Assigning spaces "for the public good" can take on many meanings. It can be argued that public good is best served by reserving a parking space for higher paid employees so they can be very efficient with their time rather than wasting time searching for random spaces on the street. Most top level managers attend off-site meetings during the day. The allocation of parking spaces to top management, either public or private, is not a new concept. Allowing individual departments to assign them as they see appropriate allows flexibility.

2. "data clearly indicates that a very small percentage of County personnel use the exclusively assigned space for any reason other than to warehouse their vehicle throughout the day."

RESPONSE

The spaces are used to park employee's vehicles during working hours. Also, the spaces provide a convenience for employees since many must leave and return frequently during the day. Searching for a parking space several times during the day is not productive and is an inefficient use of taxpayer funds.

3. "the assignments are mostly based upon power positions and historical precedent."

RESPONSE

The allocations by department are made based on management positions. Whether these positions are "power positions" is arguable. It has been said that clerical support staff is the real power of organizations. That is not meant to imply that all clerical staff receive first rights for parking spaces while their department heads are left to fend for themselves on the street. It is a long standing tradition in organizations both public and private that top managers receive first consideration for parking spaces. This should not be a controversial policy.

4. "It does not appear that the limited number of covered, monitored spaces are being used for maximum benefit."

RESPONSE

For the context of this response it is assumed maximum benefit is defined as benefit to the public. Good organizations depend first and foremost on their "Human Capital". It can be argued that the public benefit is best served by having talented managers and department heads who are recruited, in part, based on the salary and benefits they receive from the County. Eliminating their personal parking spaces is not seen as a positive move in support of hiring excellent staff and treating them well. If the County does not recruit good people and treat them well, the public benefit is not well served.

5. "There is an increasing scarcity of off street parking throughout the downtown area, including the Government Center. Thus there is an ever increasing need to better utilize existing space for the optimum benefit of the public. Patronage should now give way to better utilization. The general public has the need for Government Center parking space assignment to conduct public/private business."

RESPONSE

The needs for parking are most certainly increasing. The County has long recognized this and has considered many options in the past 15 years. At one time, consideration was given to moving the entire Government Center out of the City of San Luis Obispo to cheaper land with ample free surface parking. Many plans have been considered to relocate some County offices out of downtown. Invariably, such proposals met strong opposition from the City of San Luis Obispo. Therefore, the County has made a commitment to remain in downtown San Luis Obispo and has contributed toward more parking availability.

- The County contributed $1,250,000 to the City of San Luis Obispo for the Palm Street Parking Garage. That added one floor to the structure.
- The County purchased the former Datsun Building to provide more parking for County employees and County vehicles.
- The County purchased the County Bank building and added more off-street parking spaces.
- The County purchased the former Kimball Motors Building and added more space for County vehicles and County employees.
- The County has and will continue to consider park and ride programs and van pools. Consideration is also being given to regional offices. Small centers of County offices are currently established in the north and south County areas to diminish visits to the Government Center.
- The County sponsors a County owned bicycle program where employees can have the use of a County owned bicycle in exchange for their commitment to commute to work on a bicycle at least three days per week.
- The County attempts to lease offices close to the government center with off-street parking such as the Ahearn Building leased for the use of the Grand Jury. Many off-street parking spaces are provided for the convenience of the Grand Jury.
- The County is also considering the addition of a parking garage in concert with a possible Government Center expansion.

- The additional off-street parking spaces added for employees has allowed more on-street parking for the public.

- The County has also worked very closely with the City of San Luis Obispo and the various transit providers in establishing a major bus stop on Osos Street adjacent to the Courthouse. Additionally, the County has cooperated with the City in expanding street parking restrictions adjacent to the Government Center to discourage employee parking in favor of the public. Two hour parking limits are enforced by the City as are the many 30 minute parking spaces adjacent to the Government Center.

CONCLUSION

The Department of General Services does not respond to the **RECOMMENDATIONS** section of the Grand Jury report. It would be more appropriate to have a response from other County departments.

The current system of allocating parking spaces and decentralizing the assignment process has worked well considering the very limited availability of parking in the downtown San Luis Obispo area. The County has made gains in the number of parking spaces and was most generous in it's donation of $1,250,000 to the City of San Luis Obispo toward the Palm Street parking facility. The future holds more opportunity for the County for additional parking spaces and mass transit.

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ATTACHMENT

PARKING SPACE POSSESSORY INTEREST TAXATION
SAN LUIS OBISPO COUNTY

REPORT DESCRIPTION

The 1997-1998 San Luis Obispo County Grand Jury has reviewed the exclusive use assignment of county owned parking spaces to select county officials/employees. A companion investigation into the imposition and collection of a "possessory interest" tax thereon is required to address all relevant issues.

Geographically, the focus will be in the greater downtown area, aka the Government Center Area, hereinafter called Government Center. These parking spaces are close by the core county offices and have significantly more potential for public use benefit. The comments of this report could well apply to other exclusively assigned spaces outside the Government Center areas. However, these areas were not made a subject of this investigation.

There are numerous other county owned parking spaces, in this same area, used by county employees and officials on a non-exclusive, first come - rotating basis. Because they are non-exclusive, they are not subject to a possessory interest tax. Also, they are not as subject to the charge of political favoritism.

The taxation of possessory interests in California dates back to at least 1897. The applicable statutes were then found in the old Political Code. Current statutory law is found in the Revenue and Taxation Code. In a broad sense, the right to possess and use land or improvements thereon, when not coupled with an ownership interest, is treated as a "possessory interest". If taxable, this possessory interest is taxed in much the same manner as real estate. Double taxation is not imposed; thus if the owner is paying full real estate taxes, this payment includes that part of the bundle of rights known as a "possessory interest". However, when real estate is owned by a public entity (state, county, city, etc.), the whole ownership interest is exempt from taxation. Thus, a "possessory interest" tax can now be levied against a private citizen's right of possession and use thereof.

There are numerous exceptions. Not all private possession and use of public land is subject to the "possessory interest" tax. For example, in the case of a public employee the use must not only be exclusive, but it must also substantially serve an independent, private interest of the employee.

Conversely, if the exclusive use is primarily for the benefit of the government entity, then the "value" of the interest remains with the government and is not taxable to the employee user. Similarly, if the assigned space does not have economic viability, there is no value upon which to base a tax. For example, if equally convenient off street parking is available, then the assigned space has no or very limited value, no economic viability, and is not subject to a possessory interest tax.

Further, if the tax to be collected on the possessory interest is less than $400.00 annually and the costs of assessment and collection exceed the tax to be collected, the county Board of Supervisors may exempt the possessory interest (parking space) from property taxation. In general, the *annual* possessory interest tax on these exclusively assigned parking spaces is about $35.00. This is less than the cost on *one month's* rental in nearby public parking. The reasons for the limited dollar amount of the possessory interest tax is founded in rather arcane law and assessment formulas, but these appear to be uniformly applied.

In the course of its investigation the Grand Jury proceeded as follows:

Obtained and reviewed relevant statutes and case law.

- Obtained and reviewed an Attorney General Opinion dated March 20, 1979, CV 78/125, which specifically addressed questions relating to possessory interest tax treatment for county parking spaces assigned to county officials.

- Obtained and reviewed the following Board of Equalization documents, the majority of which were obtained from Dick Frank, County Assessor, pursuant to Grand Jury request for documentation:

    1. Opinion letter on Possessory Interests - Supplement Assessments.
    2. The Assessor's Handbook on the Appraisal of Possessory Interests, published by the California State Board of Equalization, Property Tax Department (Reprint date of October 1974).
    3. May 4, 1990 opinion letter to the Office of County Counsel, San Luis Obispo County, on the question "concerning the assessability of possessory interest in parking spaces located on land owned by the County and used by County employees." This opinion letter was apparently in response to an April 9, 1990 letter from the County Counsel's office, and a follow up letter from the County Assessor which detailed assignment and use of particular parking spaces.
    4. A 1985 Assessment Practices Survey, "A Report on The Assessment of Possessory Interests".

- Obtained a list of assessed parking spaces in the Government Center stating the Assessment numbers, name of assessed county person, and the Department or agency to which each person is assigned. Exhibit A.

- Obtained Mileage Reimbursements for county employees for the months of July through December, 1997, and collated the information against the exclusively assigned parking spaces.

- Obtained April 9, 1997 memorandum by the Deputy County Administrator on the subject of Government Center Area Parking. This memorandum designated the facilities containing the parking spaces and listed the officials and agencies to whom the spaces were assigned. This memorandum contained diagrams depicting each parking space at each designated structure/location.

- Obtained a Schedule of County Parking Assessments for the Fiscal years 1995/96, 1996/97, and 1997/98 listing assessed values and tax amount, indicating an average tax of about $34.00 for each space. Data supplied by Frank Freitas, County Treasurer - Tax Collector.

- Committee members personally visited each area where exclusively assigned parking spaces were located. Attendants in the monitored spaces were spoken to, and the amenities and relative distances of the spaces from the Government Center were noted.

- Obtained and reviewed the 1996 updated version of the Parking Management Plan of the City of San Luis Obispo. This published plan relates that the city has built two parking structures that house 699 vehicles (Palm & Morro, 1988) (Chorro & Marsh 1990), and, additionally, the city manages approximately 1,600 spaces in surface lots and along downtown streets. Any person can obtain parking within the two structures for a fee of $120.00 per quarter, $480.00 per year.[1] In and out privileges attach to the permit, but the spaces are not assigned and are taken on a first come basis.

FINDINGS

1. There are currently 74 parking spaces within the Government Center area that are exclusively assigned to a particular governmental official or employee. These 74 spaces are subject to a possessory interest tax. That tax averages about $34.00 per year. Exhibit A lists these spaces by assessment number, name and department of parking space holder.

2. These 74 spaces have a commercial value, based on market conditions, of more than $40.00 per month, $480.00 per year. The $40.00 per month comparison does not buy an assigned space, and re-parking, if the car is moved during the day, is problematical.[1]

3. There is insufficient off street parking in the Government Center Area to accommodate county workers and the public who have an ongoing need to park in this area. Consequently, the residents in the surrounding neighborhoods are impacted by traffic/parkers who spill onto their streets and occupy curbside parking.

Footnote #1 Inquiry has indicated that a comparable county charges an additional $20.00 per month for assigned spaces.

4. The expense reimbursement data discloses that out of the 74 exclusively assigned spaces only 3 percent submitted mileage claims.

5. Conflict exists between county staff and officials over the assignment of and the imposition of a possessory interest tax in regard to the 74 exclusive parking spaces. Presently, General Services assigns a given number of spaces to a department and the department is responsible for the individual assignments. A highly placed county official has advised this Grand Jury:

   "We do not ask General Services how they arrive at the number of spaces assigned to each department, but it is obvious that it has nothing to do with the number of employees in the department, the necessity for carrying heavy workloads between the car and the office, or other criteria which might seem appropriate."

   Other highly placed county officials take the position that the quoted official's "..position regarding possessory interest on parking spaces in this area (the Government Center) has greatly complicated the issue."

6. Equally, highly placed officials submit diametrically opposed statements as to whether or not the cost of assessing, imposing, administering and collecting the possessory interest tax is exceeded by the tax collected. There does not appear to be any reliable cost study in existence which would assist in answering that question. This Grand Jury expects that such a study would tend to favor the conclusion that costs exceed revenues.

7. An internal memorandum from the County Administrator's office, dated April 14, 1997, indicates that "The Board of Supervisors has requested to be provided information as to who is assigned parking spaces in the greater downtown area". A response from the Department of General Services, but dated April 9, 1997, lists out the parking spaces, both generally assigned and exclusively assigned. This April 9, 1997 response is attached as Exhibit B.

CONCLUSIONS

1. There is no policy statement available to the public, from the Board of Supervisors, delineating specific guidelines for the exclusive assignment of county owned parking spaces, particularly in the Government Center area. Further, there is no clearly defined procedure to establish that the assigned spaces are given primarily for the public good, as distinguished from the personal convenience of the recipient. Applicable laws and standards extend to the Board of Supervisors the authority to eliminate or continue the "possessory interest" tax on the 74 exclusively assigned spaces.

2. County supplied data clearly indicates that a very small percentage of county personnel use the exclusively assigned space for any reason other than to warehouse their vehicle throughout the work day. This is consistent with other information that the assignment of these spaces has little to do with "criteria which might seem appropriate", from the standpoint of optimum use for the public good.

3. A review of the names and titles of the recipients of the exclusively assigned parking spaces convinces this Grand Jury that the assignments are *mostly* based upon power positions and historical precedent. This statement does not mean to imply a conclusion that all of the existing parking privileges should be eliminated on a wholesale basis. Indeed, it appears that a number could justify a continued assignment after the implementation of appropriate standards.

4. It does not appear that the limited number of covered, monitored parking spaces are being used for maximum benefit. For example, an argument can be made that secure parking should be provided to certain, high profile, government officials because of safety concerns. Other appropriate standards could well be proposed and adopted as policy.

5. There is an increasing scarcity of off street parking throughout the downtown area, including the Government Center. Thus there is an ever increasing need to better utilize existing space for the optimum benefit to the public. Patronage should now give way to better utilization. The general public has the need for Government Center parking space assigment to conduct public/private business.

RECOMMENDATIONS

1. The Board of Supervisors should order a survey to determine the full cost of administering the possessory interest tax on the Government Center parking spaces. This tax should be eliminated if it cannot be demonstrated to be cost effective under law and fact.

2. The Government Center parking spaces should be assigned only to those county employees/officials who can demonstrate a benefit to the county (the public good) from their exclusive use of the space.

3. The Board of Supervisors should direct the establishment of policy to insure that limited county parking spaces are assigned for optimum benefit to the county. Prior to assignment, County employees/officials should be required to submit a factually based application that their use of the parking space would provide this optimum benefit to the county. Policy should include the following:
   a. Place emphasis upon assignment to employees who are most apt to have daily recurring need to move in and out of the space and/or whose use would most likely result in the saving of substantial productive time.
   b. The elimination of assignment based mostly upon bureaucratic power positions or historical precedent.
   c. Eliminate the assignment of parking space to individuals who merely use the space to warehouse their vehicle for the whole work day. Exceptions could be made where there is an overriding concern such as safety or welfare, employment contract requirement, etc.

4. Investigate the establishment of additional downtown parking structures. Also consideration should be given to additional parking stations that are distant from downtown and which would be coordinated with a shuttle system. Public reports indicate that the city currently plans to extend the capacity of its existing parking stations. The county should consider a plan to coordinate and cooperate with the city effort for the mutual good of all.

COUNTY PARKING SPACES

Assessment Number	Name	Department	Comments
940-001-345	Carol, Allen	Courts	
940-001-346	Conen, Robert	Personnel	
940-001-347	O'Donnell, Mary	Courts	
940-001-348	Wade, John	ISD	
940-001-349	Morris, Donna	Tax Collector	
940-001-350	Reiner, Larry	Courts	
940-001-351	Duffy, Michael	Courts	
940-001-352	Lindholm, James	Co. Counsel	
940-001-353	Burke, E. Jeffrey	Courts	
940-001-354	Mullaney, Teresa E.	Courts	
940-001-355	Hammer, Barry	Courts	
940-001-356	LaBarbera, Barry	District Attorney	
940-001-357	Money, Christopher	Courts	
940-001-358	Umhofer, Donald	Courts	
940-001-359	(vacant)	Courts	Visiting judges
940-001-360	Chidlaw, Edward	Courts	
940-001-361	Frank, Dick (Van Matre, Donna)	Assessor Assessor	2 parking spaces
940-001-362	Estrada, William	Auditor	
940-001-363	Law, Brett	Tax Collector	
940-001-354	Nanson, Tim	Engineering	
940-001-365	Santos, Arrona	Personnel	
940-001-366	Granger, Rich	Personnel	
940-001-367	Parsons, Rosalyn	Courts	
940-001-368	Ream, James	Courts	

EXHIBIT A

Assessment Number	Name	Department	Comments
940-001-369	Crawford, Jac	Co. Counsel	
940-001-370	(vacant)	Courts	James Gardner retired 05/97
940-001-371	Rosenberger, George	General Services	
940-001-372	Sibbach, Gere	Auditor	
940-001-373	Leib, Duane	General Services	
940-001-375	Freitas, Frank	Tax Collector	
940-001-377	Ovitt, Harry	Supervisor	
940-001-378	Laurent, Laurence	Supervisor	
940-001-379	Brackett, Ruth	Supervisor	
940-001-380	Ryan, Michael	Supervisor	
940-001-381	Pinard, Peg	Supervisor	
940-001-382	Howe, Andrew	General Services	
940-001-383	Mitchell, Tom	General Services	
940-001-384	Couzzi, Cindy	General Services	
940-001-385	(vacant)	General Services	Tim Gallagher left service 03/97
940-001-387	King, Noel R.	Engineering	
940-001-388	Hoffman, Norma	Planning	
940-001-389	Moss, Robert A.	ISD	
940-001-390 940-001-504	Lieser, Patrick Lieser, Patrick	ISD ISD	He assigns to his staff on rotation
940-001-391	Williams, Lee	CAO	
940-001-392	Tingle, Bryce D.	Planning	
940-001-393	Shea, Gerald T.	District Attorney	
940-001-394	Grant, James	CAO	
940-001-430 940-001-503	Williams, Randy Williams, Randy	ISD ISD	He assigns to his staff on rotation

Assessment Number	Name	Department	Comments
940-001-505	Moss, Bob	ISD	
940-001-509	Wallo, John	Engineering	
940-001-511	Saude, Stan	Engineering	
940-001-512	Edwards, Fran	Tax Collector	
940-001-513	Douglas, Roberta M.	Assessor	
940-001-514	Stillman, Marsha	Auditor	
940-001-515	Mahoney, Betty	Auditor	
940-001-516	Freedman, William	Auditor	
940-001-517	Haber, Amparo	Auditor	
940-001-518	Booth, Norman	Auditor	
940-001-519	Jensen, Warren	Co. Counsel	
940-001-520	York, Mary	CAO	
940-001-521	Hood, Paul	CAO	
940-001-522	Hall, Wayne	CAO	
940-001-523	Grayson, Robert	CAO	
940-001-524	Wilcox, Gail	CAO	
940-001-527	McCay, Barney	Planning	
940-001-528	Philbin, Denis	General Services	
940-001-529	Matus, Michael	Auditor	
940-001-530	Jenny, Pete	General Services	
940-001-531	Jenkins, Jon M.	Co. Counsel	
940-001-532	Rodewald, Julie	Clerk/Recorder	
940-001-615	Findley, Sidney	Courts	

COUNTY OF SAN LUIS OBISPO
department of general services
COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5200
DUANE P. LEIB, DIRECTOR

TO: LEE WILLIAMS, DEPUTY COUNTY ADMINISTRATOR

FROM: R. GEORGE ROSENBERGER,
DEPUTY DIRECTOR GENERAL SERVICES

DATE: APRIL 9, 1997

SUBJECT: GOVERNMENT CENTER AREA PARKING

Lee, you have asked for information regarding parking and parking assignments in the area of the Government Center. Attached find drawings of the six (6) County owned locations historically considered within the sphere of the Government Center Complex. The six facilities include: 1050 Monterey Street-Government Center, 1039 Monterey Street-Parking Garage, 1087 Santa Rosa Street (former County Bank Building), 1144 Monterey Street, (former Kimball site), 1070 Palm Street (house) and 1051 Mill Street (house). The parking in these areas is assigned as follows: Administrative Office-8 spaces, Assessor-3 spaces, Auditor/Controller-7 spaces, Board of Supervisors-5 spaces, Clerk/Recorder-2 spaces, County Counsel-6 spaces, District Attorney-14 spaces, Engineering-6 spaces, General Services-10 spaces, Information Services/Administrative Office-10 spaces, Jury Commissioner-1 space, Municipal Court-7 spaces, Personnel-3 spaces, Planning-7 spaces, Sheriff/Civil-5 spaces, Superior Court-8 spaces, Treasurer/Tax Collector-4 spaces, Handicapped parking-6 spaces, County Vehicle-69 spaces, Maintenance Vehicle-5 spaces, Outside Department Vehicle-7 spaces, Prisoner Transport-7 spaces and Visitors-7 spaces.

In addition to the above facilities, there are three (3) County leased facilities with parking in the proximity of the Government Center. Those facilities are: 1120 Mill Street, 1035 Walnut Street and 778 Osos Street. The parking in these three areas is assigned as follows: Administrative Office/Emergency Services/Risk Management-10 spaces, County Counsel-7 spaces, Grand Jury-5 spaces, Handicapped-1 space and Superior Court-6 spaces.

Parking spaces in the sphere of the Government Center Complex are assigned to departments, who in turn assign them to their respective employees. This system of assignment allows the County to control it's parking resources with limited County oversight. Major portions of the available parking are for the large number of County owned vehicles based at the Government Center. Space is also necessary for the motor pool vehicles available by reservation, handicapped parking, prisoner transport parking, maintenance vehicles, a limited number of outside department vehicles and visitor parking spaces.

EXHIBIT B

The spaces allotted to General Services are assigned to the following positions: Director, Deputy Director, Administrator, Property Manager, Central Services Manager, Park Facilities Manager, Park Superintendent-Maintenance, Park Superintendent-Operations, Accountant III and Supervising Administration Clerk II. You will need to contact the other County departments for their specific department assignments. Don't forget, the Assessor's position regarding possessory interest on parking spaces in this area has greatly complicated the issue. If you have further questions, don't hesitate to contact me.

Attachments

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METHODOLOGY FOR ALLOCATION OF PARKING SPACES
COUNTY GOVERNMENT CENTER (COURTHOUSE)
AND COURTHOUSE PROXIMITY

1. The County Administrative Officer is authorized and directed to determine and designate parking assignments.

2. The Director of General Services is authorized to mark parking stalls.

3. Parking spaces are allocated to a department and not directly to an individual employee. The respective department head then makes the actual assignments.

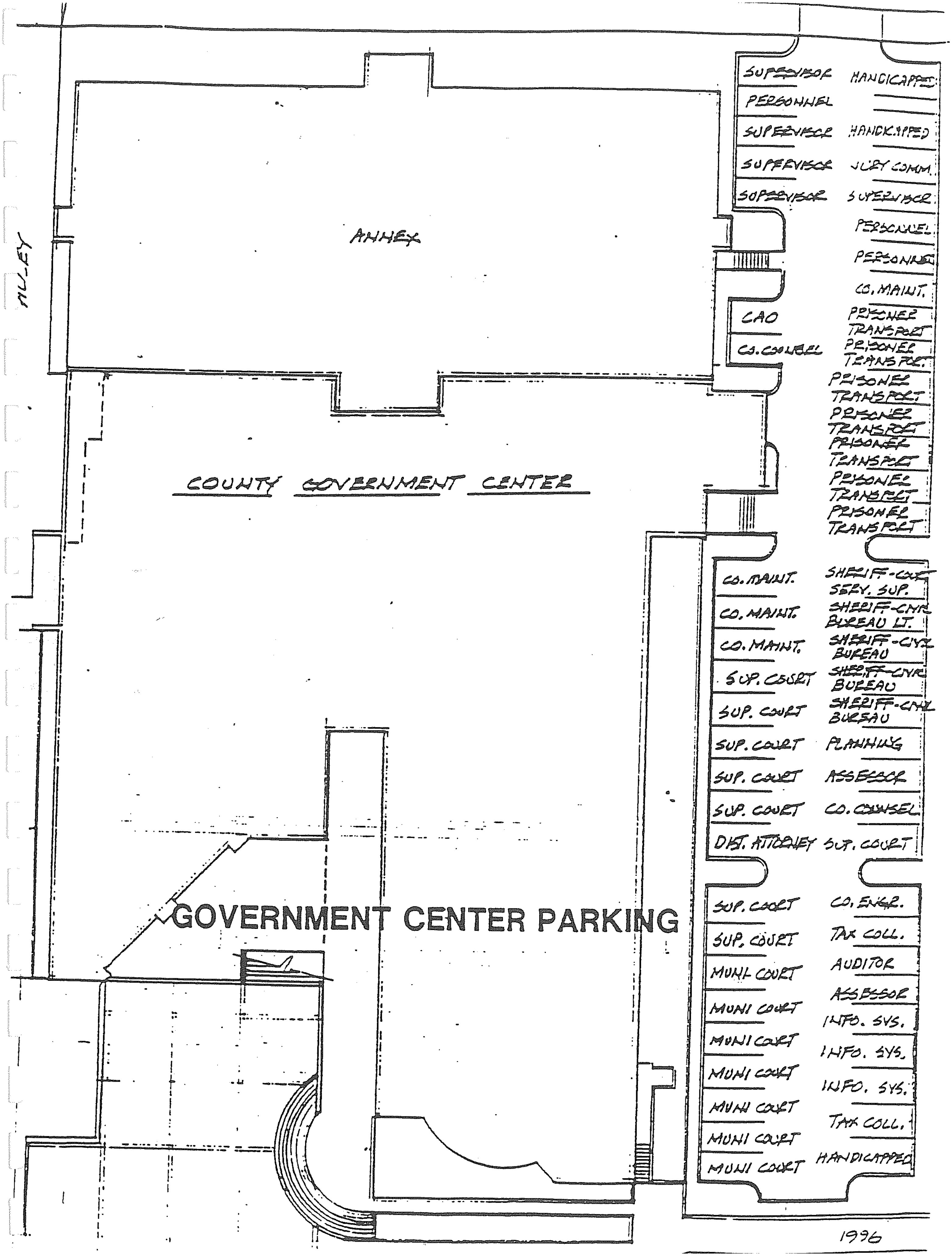
4. The methodology of actual department parking space allocation is generally based upon the ratio of the number of department management employees in relation to the total number of County management employees (in the courthouse area) as it relates to the number of parking spaces assigned to a department relative to the total number of parking spaces available within the courthouse area.

I.E. $$\frac{\text{DEPT. MGMT. EMP.}}{\text{TOTAL MGMT. EMP.}} = \frac{\text{NO. OF DEPT. SPACES ASSIGNED}}{\text{TOTAL NO. SPACES AVAILABLE}}$$

5. The above methodology is a guide line **only** and exceptions are made upon special circumstances (i.e. handicapped spaces, service vehicles, prisoner transport, Superior and Municipal Court, Board of Supervisors, county owned vehicles, etc.)

6. Modifications to allocations and assignments will be made on an as needed basis.

f:\h\rgr\parking


ANNEX
COUNTY GOVERNMENT CENTER
GOVERNMENT CENTER PARKING
SUPERVISOR
HANDICAPPED
PERSONNEL
SUPERVISOR
HANDICAPPED
SUPERVISOR
JURY COMM.
SUPERVISOR
SUPERVISOR
PERSONNEL
PERSONNEL
CO. MAINT.
CAO
PRISONER TRANSPORT
CO. COUNSEL
PRISONER TRANSPORT
PRISONER TRANSPORT
PRISONER TRANSPORT
PRISONER TRANSPORT
PRISONER TRANSPORT
PRISONER TRANSPORT
CO. MAINT.
SHERIFF-CIVIL SERV. SUP.
CO. MAINT.
SHERIFF-CIVIL BUREAU LT.
CO. MAINT.
SHERIFF-CIVIL BUREAU
SUP. COURT
SHERIFF-CIVIL BUREAU
SUP. COURT
SHERIFF-CIVIL BUREAU
SUP. COURT
PLANNING
SUP. COURT
ASSESSOR
SUP. COURT
CO. COUNSEL
DIST. ATTORNEY
SUP. COURT
SUP. COURT
CO. ENGR.
SUP. COURT
TAX COLL.
MUNI COURT
AUDITOR
MUNI COURT
ASSESSOR
MUNI COURT
INFO. SYS.
MUNI COURT
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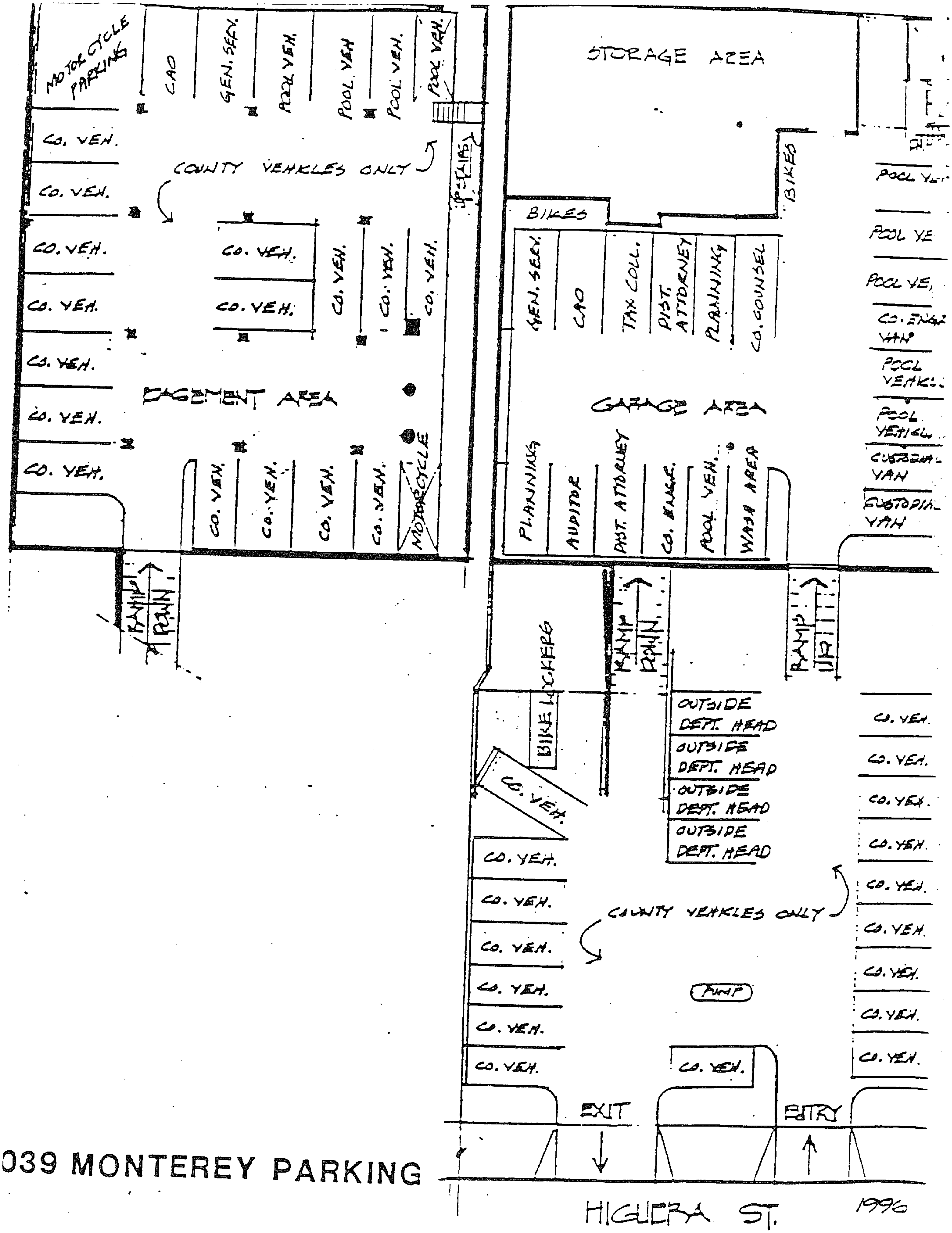
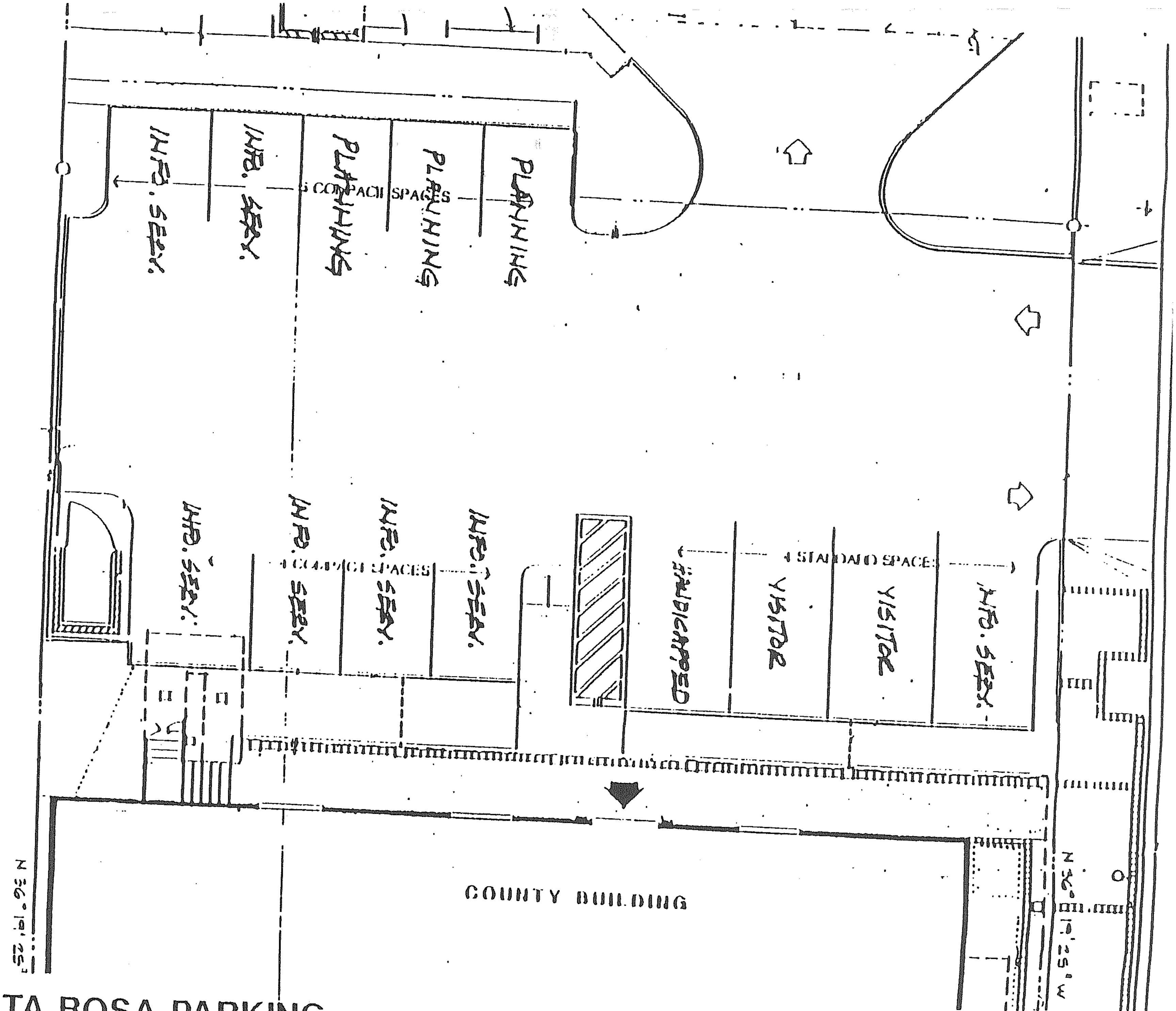
MUNI COURT
INFO. SYS.
MUNI COURT
TAX COLL.
MUNI COURT
HANDICAPPED
MUNI COURT

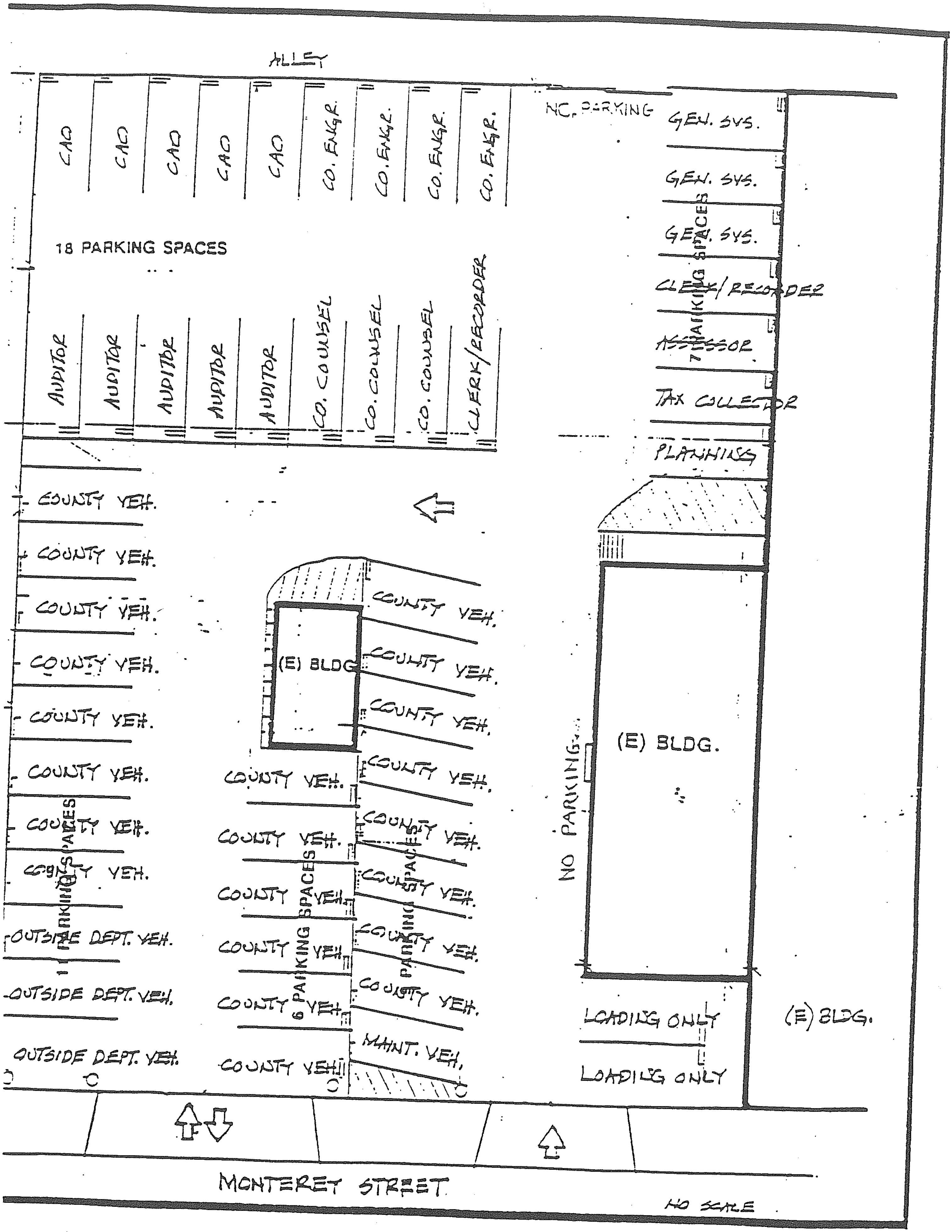
1996



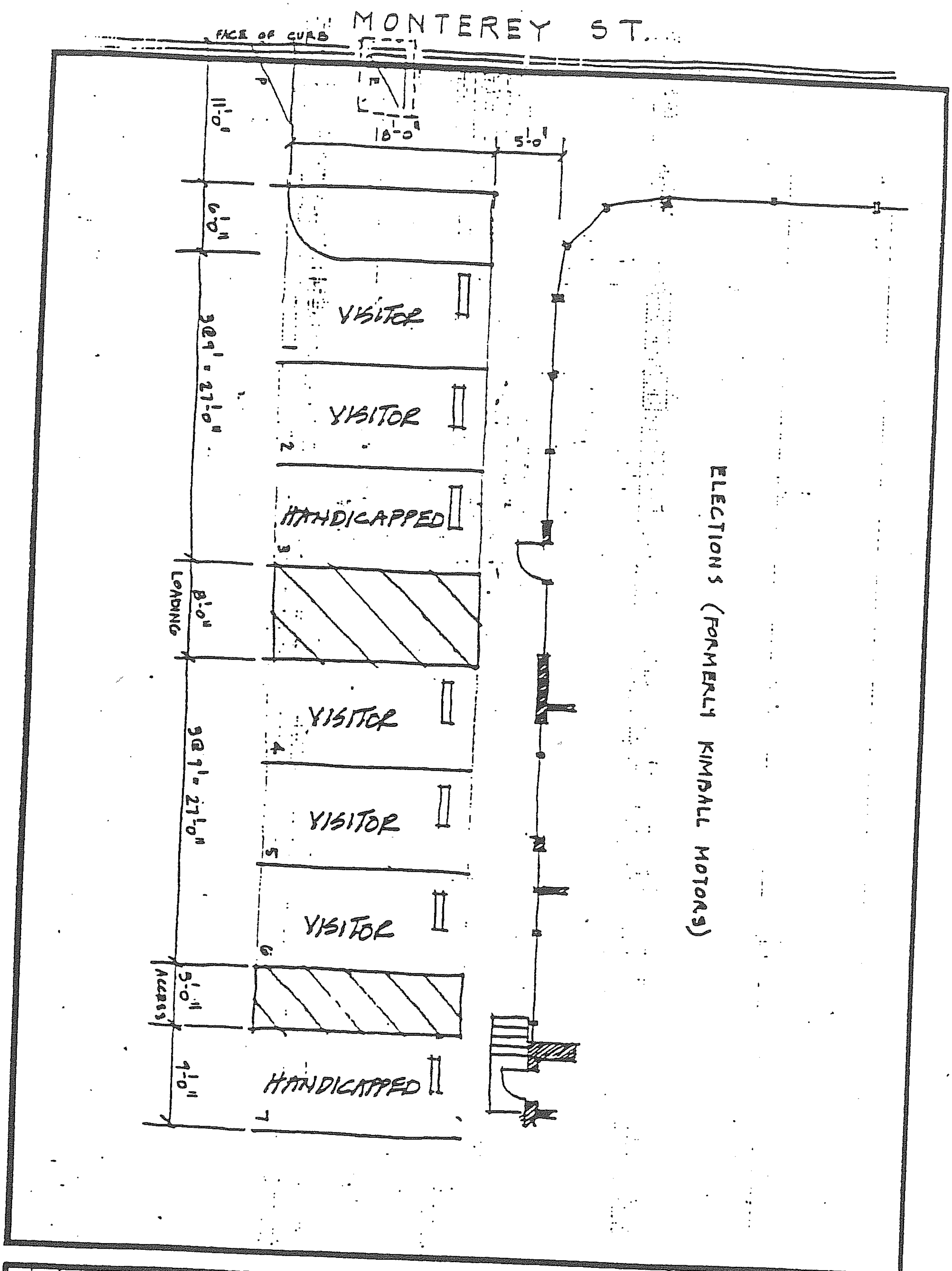
039 MONTEREY PARKING



1087 SANTA ROSA PARKING



1144 MONTEREY ST. PARKING



COUNTY of SAN LUIS OBISPO
DEPARTMENT of GENERAL SERVICES

No.	Revision	Date	By

County Facility
ELECTIONS
1144 MONTEREY

Drawn by
Checked by
Client Approval
Date

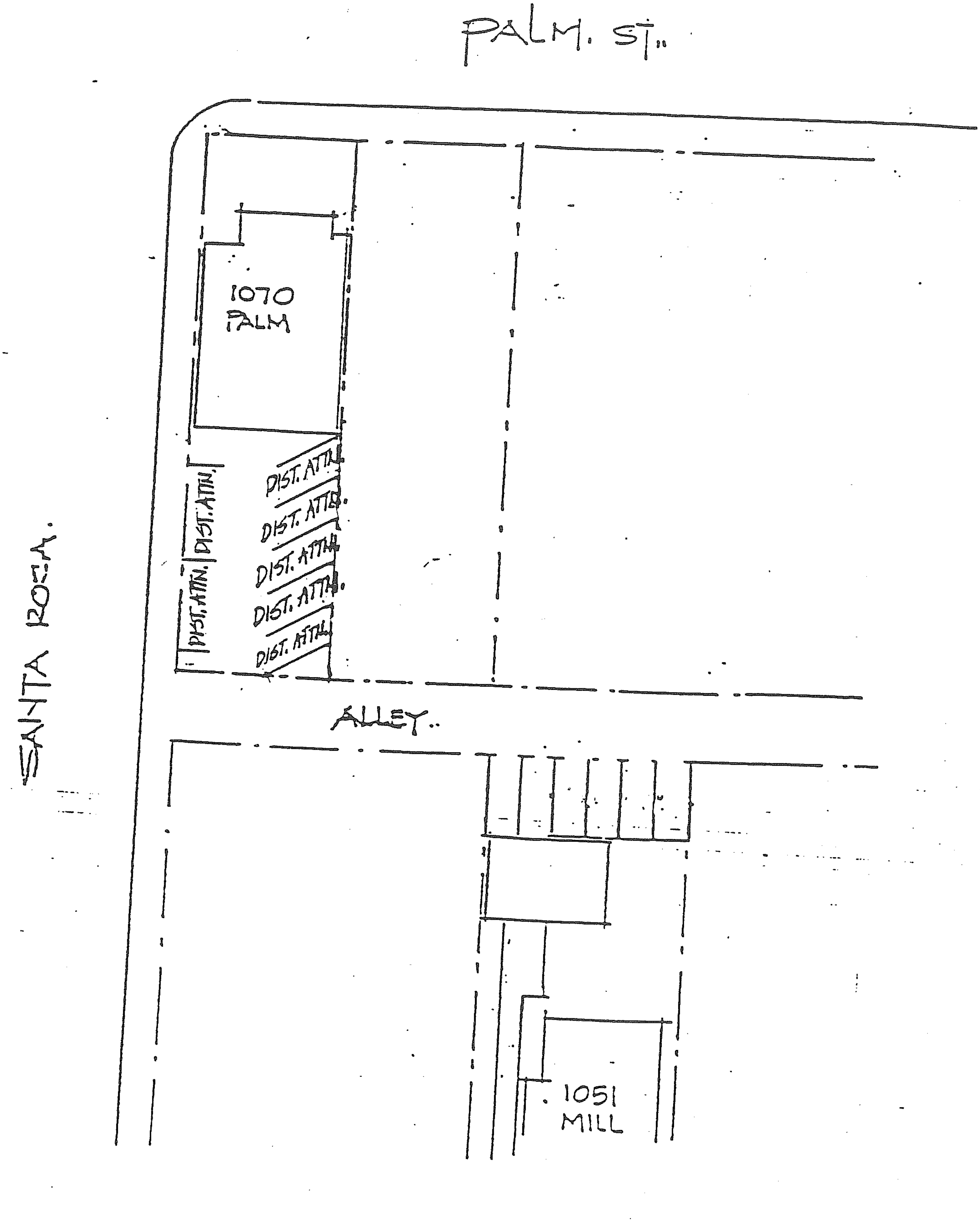
CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND EXISTING CONDITIONS PRIOR TO COMMENCING WORK, REPORT ANY DISCREPANCIES TO THE OWNER.

Project Title:

Sheet Title:
PARKING PLAN

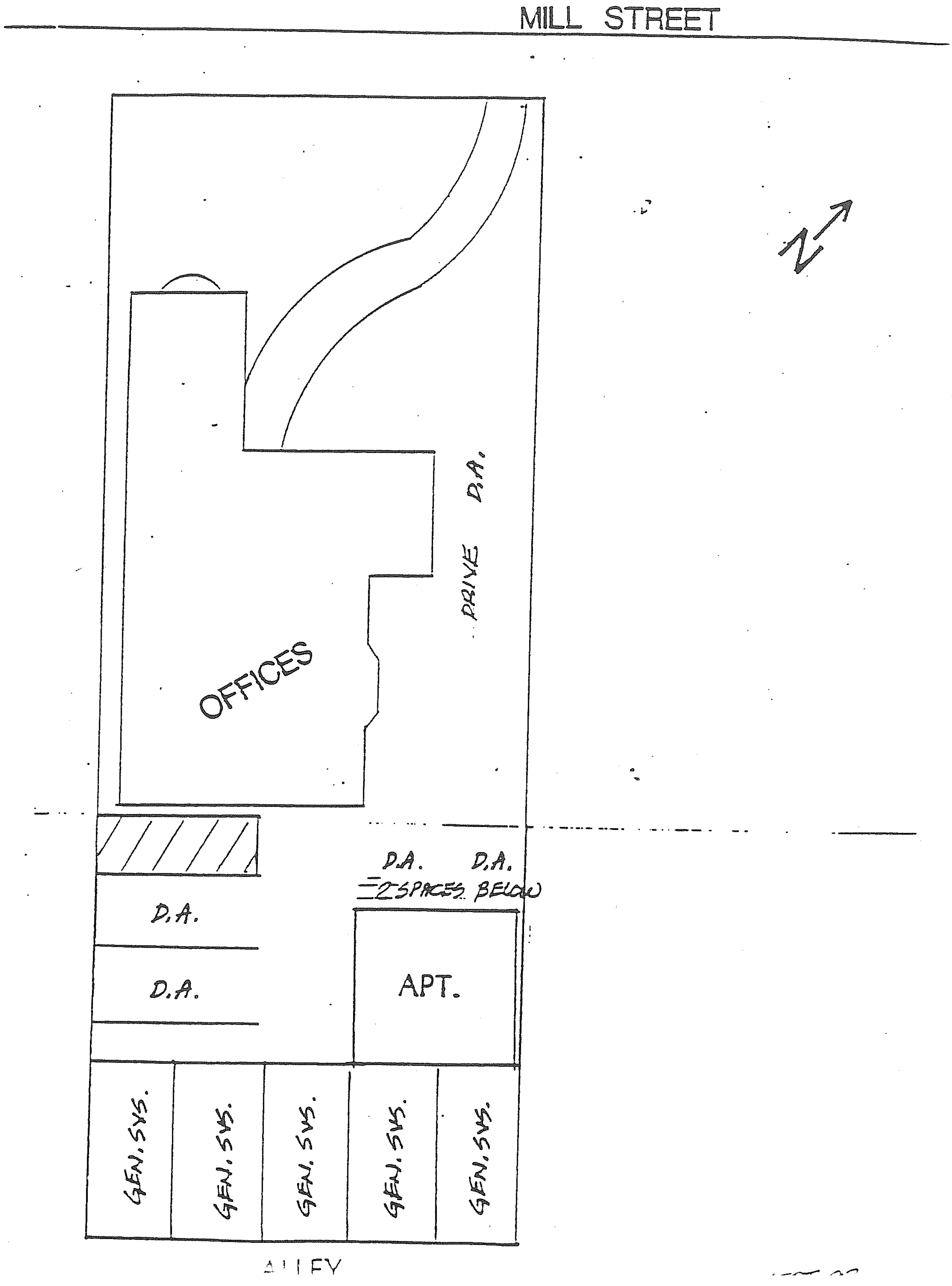
Sheet Number
of Sheets

File No.
Project No.



1070 PALM PARKING

1051 MILL STREET
SITE PLAN



7/28/98

B-4

County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 ■ SAN LUIS OBISPO, CALIFORNIA 93408 ■ (805) 781-5011

OFFICE OF THE
COUNTY ADMINISTRATOR

TO: SUPERIOR COURT PRESIDING JUDGE

FROM: DAVID EDGE, COUNTY ADMINISTRATOR

DATE: AUGUST 21, 1998

SUBJECT: RESPONSE TO GRAND JURY REPORT ON FLOOD CONTROL PROBLEM IN LOS OSOS

On June 22, 1998, the Grand Jury issued a report on the subject of the Flood Control Problem in Los Osos. State statue requires written responses from departments that are the subject of Grand Jury Report findings and recommendations. According to the law, responses are to be directed to the Superior Court Presiding Judge with sixty days.

The attached documentation is submitted to you with this memorandum to serve as the Department's response to the Grand Jury report. Please be sure to forward this information to the Grand Jury for their records and disposition. Thank you.

c. Board of Supervisors

JUL 1998
Received
Superior Court
HF

SAN LUIS OBISPO COUNTY ENGINEERING DEPARTMENT

COUNTY GOVERNMENT CENTER • ROOM 207 • SAN LUIS OBISPO, CALIFORNIA 93408

TIMOTHY P. NANSON
COUNTY ENGINEER
GLEN L. PRIDDY
DEPUTY COUNTY ENGINEER
ENGINEERING SERVICES
NOEL KING
DEPUTY COUNTY ENGINEER
ADMINISTRATION

PHONE (805) 781-5252 • FAX (805) 781-1229

ROADS
SOLID WASTE
FRANCHISE ADMINISTRATION
WATER RESOURCES
COUNTY SURVEYOR
SPECIAL DISTRICTS

July 10, 1998

Cindy Wittstrom, Chairperson
San Luis Obispo County Grand Jury
1120 Mill Street
San Luis Obispo, CA 93408

Subject: Response to Grand Jury Report on Flood Control Problems in Los Osos

Dear Ms. Wittstrom:

In a June 23, 1998 memorandum from Bob Grayson, my Department was asked to provide a response to the above Grand Jury Report.

The history of the flood control events in Los Osos was accurate. The Department's efforts in working with the community on this problem have been extensive, and date back to the 1960's. The passage of Proposition 218 has caused havoc on the efforts of all those involved to correct the drainage issues in Los Osos. The financial ramifications are correctly depicted in the report. Without the financial support of the Los Osos community, this Department, based on Board policy that these special benefit programs are to be self-funded, is unable to continue support. However, this last winter, in light of the predictions of the impact of an El Niño event on the State of California, the Engineering Department recommended to the Board of Supervisors that the remaining fund balance in the Los Osos drainage budget be used for 1997-98 drainage operations instead of using those remaining funds to repay a portion of the significant amount of existing debt that the district owes the County General Fund. The Board approved staff's recommendation.

Specific comments on the conclusions and recommendations of the Grand Jury are as follows:

Conclusion 1: Extensive efforts have been made by Engineering staff to provide information to the CSA 9 drainage committee and the full CSA 9 Advisory Group. Further, proponents of the passage of Measure E-98, an upcoming ballot measure proposing to reinstate the $16 per year drainage service charge in Los Osos (CSA 9J), are in the process of making information about the drainage problems available to the voters.

Conclusion 2: We requested of the Board, and they agreed, to fund a separate mail ballot election, at an earlier date than the CSD election, to isolate the drainage issue (at a cost of $20,000).

Conclusion 3: This is partially correct. There are serious financial problems in the community, based on the major financial issues that lay in front of it, namely:

- The community pool, and recreational programs for community youth,
- the building moratorium imposed by the Regional Water Quality Control Board that resulted in the Los Osos Sewer Project,
- the ground water modeling of the basin underlying the area, and
- the comprehensive drainage study

All of these issues have been before the community for a decision in various combinations. This addresses, somewhat, the concern expressed in Conclusion #2. The issues are written separately and have been presented at community meetings as separate topics. The problem goes more to the financial impact that individuals may feel if these matters were to be approved and implemented. The Los Osos Sewer Project alone carries a $68 million price tag. The Drainage Project study recommendations, if implemented as a single project (which is preferred), would cost an estimated $21 million. To help offset some of the cost, the Engineering Department has sought grants and loans for the sewer project and for drainage improvements. As a result, through the State Revolving Fund Loan Program, the sewer project may receive partial funding at a rate of about 2.5% (if the project is still eligible once all agencies' permits are received). The Board has also considered using Community Development Block Grant Funds to help offset the cost of connecting to the sewer for individuals with low income. The application for drainage funding was unsuccessful due to the minimal amount of funds available and the overwhelming demands from throughout the State.

Conclusion #3 is incorrect in stating that substantial funds have been spent for little gain. Road grading improvements at 16th and Paso Robles virtually eliminated prior years' ponding water problems and pumps were able to keep up with flow, preventing private property flooding during the 97-98 El Niño season. The improvements at the 8th and El Moro area (an underground transmission pipe; modifications to pump station inlet, and replacement of old sump pumps) allowed the pumping setup to keep up with the storm water all winter, in spite of El Niño rains. The funds were spent to provide additional drainage ability at the most adversely impacted locations. These facilities were installed with the complete review and endorsement of the CSA 9 Advisory Group. The community thanked the Department for the speed with which the project was conceived and carried out. Of even more importance, there has been no flooding of homes in these areas following the installation of these facilities. So, there has been substantial improvement to the affected homeowners at a reasonable cost.

The recommendations of the Grand Jury are noted, and the following related comments are provided:

1. The residents of the community have been provided information about the flooding problem by both the County and the local proponents of the project. Some people believe that the serious problems are localized and should not be a burden to the majority. Yet the Engineering Department, as has been expressed by the Grand Jury, believes that the problem is complex and requires a comprehensive community-wide solution.

2. The flood control issue, both immediate and long-term, does have its own identity. Both the Engineering Department and the community felt so strongly about the need to keep this issue separate from the others, especially the Los Osos Sewer Project, that a recommendation was made to, and approved by, the Board to have a mail ballot done in August on just this issue in spite of the extra elections cost required to do so. To combine it with the November general election was deemed to be inappropriate because of issues such as the CSD formation question. This action was approved by the Board on April 14, 1998, item F-1.

3. The recommendations made in the Drainage Project study for a long-term solution will be presented to the community for discussion, development, and approval of an implementation plan. Only with community support by the voters in CSA 9J can such a comprehensive improvement project move forward. This Department will continue to do its best to assist the community on technical issues. The Department also continues to be committed to looking for sources of funding to help defray the cost of these public improvements. Our continued help in the future depends very much on the outcome of the election on the formation of a Community Services District, scheduled for November 1998.

The Engineering Department thanks the Grand Jury for the opportunity to provide comments on the flood control problems in Los Osos.

Sincerely,

Timothy P. Nanson

TIMOTHY P. NANSON
County Engineer

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County Plans and Administration

Inquiry Into the Awarding of Ambulance Service Contract for The Southern Ambulance Service District Area of San Luis Obispo County

Inquiry into Personnel Grievances - Oceano Community Service District

Vacation Rentals (Transient Occupancy Tax - San Luis Obispo County)

County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011

DAVID EDGE
COUNTY ADMINISTRATOR

August 14, 1998

TO: GRAND JURY FOREMAN

FROM: LEE WILLIAMS, DEPUTY COUNTY ADMINISTRATOR LW

SUBJECT: **ADVANCED COPY OF RESPONSE TO THE 1997-98 GRAND JURY REPORT ON THE AWARDING OF THE AMBULANCE SERVICE CONTRACT FOR THE SOUTHERN AMBULANCE SERVICE AREA OF SAN LUIS OBISPO COUNTY**

On June 10, 1998, the Grand Jury issued a report on the Awarding of the Ambulance Service Contract for the Southern Ambulance Service Area of San Luis Obispo County. A consent item will appear on the Board of Supervisors Meeting Agenda of August 25, 1998 responding to the Grand Jury's Report.

The attached Grand Jury report response copy is provided for you in advance of the agenda item appearing on the Board of Supervisors meeting agenda Please call me if you have any questions. I can be reached at 781-5011.

adm\gjamb.mem

County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011

DAVID EDGE
COUNTY ADMINISTRATOR

August 25, 1998

TO: BOARD OF SUPERVISORS

FROM: LEE WILLIAMS, DEPUTY COUNTY ADMINISTRATOR

SUBJECT: **RESPONSE TO THE 1997-98 GRAND JURY REPORT ON THE AWARDING OF THE AMBULANCE SERVICE CONTRACT FOR THE SOUTHERN AMBULANCE SERVICE AREA OF SAN LUIS OBISPO COUNTY**

Summary

This is written response to the 1997-98 Grand Jury Report on the Awarding of the Ambulance Service Contract for the Southern Ambulance Service Area of San Luis Obispo County. The Board of Supervisors must approve a response to the Grand Jury's report in order to comply with the legal reporting requirements of Section 933(c) of the California Penal Code. The Grand Jury's recommendations and responses to those recommendations are contained in this Board item.

Recommendation

It is recommended that the Board of Supervisors approve this response to the 1997-98 Grand Jury Report on the Awarding of the Ambulance Service Contract for the Southern Ambulance Service Area of San Luis Obispo County, and direct the Clerk to Forward it to the Presiding Judge of the Superior Court.

Discussion

On June 10 the Grand Jury released a report (attached) on the awarding of the ambulance contract for the South County area. This report contains three (3) recommendations, which, along with associated responses, are noted below.

Recommendation #1:

The Board of Supervisors should be circumspect in providing open and public comment on all staff and advisory body recommendations. particularly where there is a conflict in their respective recommendations. The recommendations of Advisory bodies should not be lightly cast aside.

Response: The Board of Supervisors is mindful and receptive to all input on any given matter which comes before the Board. This is particularly true of comments and recommendations submitted by advisory bodies. In fact, the Board often asks during consideration of a matter whether the issue has been reviewed by the appropriate advisory body, and what is that body's recommendation. While not all recommendations of advisory bodies may be concurred with by the Board of Supervisors, they are never taken lightly, nor lightly cast aside.

Recommendation #2:

The RFP process, if used, should be expected to yield a proposal which the Board of Supervisors can accept. If not, this process should not be used. It should contain the necessary performance standards and provisions to enable the submission of acceptable proposals. Clearly stated guidelines should be set forth that delineate acceptance procedures and methods of communication thereof.

> **Response:** We concur wholeheartedly with this recommendation. This is the goal of all County departments when developing and issuing an RFP. In the specific case of the Ambulance Service contract which was the subject of this Grand Jury report, we believe these criteria were met.

Recommendation #3:

The Board of Supervisors should make every effort to avoid the appearance of impropriety in their decision making process.

> **Response:** The Board of Supervisors and all County departments recognize the validity of the intent expressed by this recommendation. We all understand that we operate in the public arena for the public good, and "appearance" is an important element in how we do business, in some cases as important as the facts of a given matter. As such, we will continue, as we always have, to make every effort to avoid the appearance of impropriety in the County's decision making process.

Other Agency Involvement

Copies of this response has been provided to the members of the Ambulance Performance Operations Committee (APOC) for their information

Financial Considerations

There are no financial impacts associated with the above noted response.

attachment

adm\gjamb.bs

INQUIRY INTO THE AWARDING OF AMBULANCE SERVICE CONTRACT FOR THE SOUTHERN AMBULANCE SERVICE AREA OF SAN LUIS OBISPO COUNTY

REPORT DESCRIPTION

An investigation into the awarding of ambulance service contracts was undertaken by the 1997-1998 San Luis Obispo County Grand Jury in response to citizens' complaints. The complaints specifically pertained to the Southern Ambulance Service Area. However, a review of past history relating to ambulance services is essential to an understanding of the contract award process.

Background and History

For many years prior to 1993, ambulance service within the county was licensed annually through the Sheriff's office. There was little governmental oversight. The licenses expired each December. Inspections were conducted by the CHP and basically limited to vehicular safety concerns. As of August 1993, there were three long-term ambulance service providers operating within defined boundaries in the county of San Luis Obispo. These providers were San Luis Ambulance Service, Inc. (SLAS), Cambria Community Healthcare District (CCHD), and Five Cities Ambulance Service, Inc. (FCAS).

In August 1993, the County Code dealing with ambulance service was amended (Section 6.60) to bring the County more in line with "The Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act" (EMS Act) enacted in 1980 (Health & Safety Code § 1797 et seq). Various amendments thereto were made in the following years. Essentially, the EMS Act was an enabling statute. It was designed to grant authority and anti-trust immunity to the counties for the establishment and implementation of controlled and regulated Emergency Medical Care Services. The EMS Act extended to the establishment of *exclusive ambulance service areas.*

The August 1993 amendment to Section 6.60 was taken as a step toward the establishment of an Emergency Medical Services Plan (EMS Plan) for San Luis Obispo County. As part thereof, the sheriff-authorized ambulance licenses were allowed to expire, and the county entered into Interim Agreements with the existing ambulance providers pending the establishment and implementation of a complete county EMS Plan. The EMS Plan was adopted in 1995.

The 1993 revision established the County's Ambulance Performance/Operations Committee (APOC), a seven member board. It consisted of three members appointed by the County Administrator and four members appointed by the city managers, two of whom were to be fire chiefs.

FINDINGS

1. Historically, fire departments are "first responders" to an emergency scene and have on board emergency-medical personnel who provide the initial medical care. Thus, they are in a position to receive firsthand knowledge of the timeliness and adequacy of the emergency medical care rendered by the various ambulance providers. As will be seen, this fact has particular relevance to the complaints investigated by this Grand Jury.

2. The broad purpose of APOC is to, among other things,provide advice and recommendations to the Board of Supervisors on matters pertaining to the provision of ambulance services in the County. Specifically, the County Code charges APOC with system design issues for the implementation of emergency medical services and with the specific requirements to be contained in the new ambulance service contracts.

3. In March of 1996, APOC concluded its analysis of the operations of San Luis Ambulance Service (SLAS). Historically it has operated in the northern and central service areas. An exclusive five-year agreement in favor of SLAS, for this area, was proposed by APOC to the Board of Supervisors and adopted thereby. The County Administrator, Robert Hendrix, reported to the Board of Supervisors on this pilot agreement:

   "That agreement was designed by the APOC to address areas of concern that have existed in the Emergency Medical Services (EMS) community over the last several years. These areas of concern include the lack of quantifiable performance standards, coordination with public agency (fire service) first responder services, service reliability, and system cost effectiveness."

4. In June of 1996, APOC concluded its discussions with the Cambria County Healthcare District (CCHD). Thereafter, the Board of Supervisors adopted APOC's recommendation to enter into a five-year contract with CCHD. It was modeled after the SLAS contract.

5. In September 1996, APOC met to consider an agreement with Five Cities Ambulance Service (FCAS) for the southern ambulance service area. Various members of APOC voiced concern about the past service record of FCAS and its ability to comply with the performance requirements called for by the newly created five-year agreements. The Interim Agreement with FCAS was then extended by the Board of Supervisors to give FCAS additional time to address the concerns of APOC.

6. In October 1996, APOC met again on the Five Cities issue. It recommended that the Interim Agreement with FCAS be allowed to expire, and that the Board of Supervisors award the ambulance service contract to SLAS.

7. On January 21, 1997 a Board of Supervisors meeting was held to consider these APOC recommendations. County staff proposed the Board ignore the APOC recommendations, and that the Board either approve a submitted five-year contract with FCAS, or that the Board "approve an amendment to the existing interim agreement with Five Cities Ambulance extending the term six months (through July 31, 1997), and direct staff to solicit competitive proposals from interested ambulance providers consistent with your Board's policy."

The Board of Supervisors chose to accept staff's latter recommendation. The Interim Agreement with FCAS was again extended, and staff began preparation of the formal Request For Proposals (RFP).

The Fire Chiefs Association of San Luis Obispo County submitted a written report to the Board of Supervisors for its January 21, 1997 meeting. They outlined the poor performance record of FCAS since 1988 and recommended that the Board follow the recommendations of APOC (see attached Exhibit A). The indicated position of the Fire Chiefs Association is adequately supported in the record submitted to this Grand Jury; a part of this support is contained in statistical detail submitted by SLAS to the Board of Supervisors for the January 21 meeting.

8. On or about April 4, 1997 (an issue date of April 8 also appears on RFP documents) county staff issued a formal Request for Proposals (RFP) for Ambulance Service in the Southern Ambulance Service Area. The deadline for RFP submittal was stated therein as either May 5 or May 9, 1997, depending upon which part of the RFP one chooses to accept. Additional confusion is introduced because two apparently original RFP's have been submitted to the Grand Jury. One of these RFP's, advanced by staff as the valid original, indicates an original submission date of May 12, 1997. In any event, on May 8, 1997 staff submitted Addendum Number One to the RFP extending the "opening date" to May 27, 1997 (see Exhibit B). The addendum on its face says nothing about extending the proposal submission date; it speaks only to a "New opening date" and to "Any bidder who has already forwarded his proposal and desires to make corrections or changes may request his proposal be returned to him."

9. SLAS was the only service provider who submitted an RFP prior to May 12, 1997. Subsequently three other providers submitted proposals within the extended time period. One of these bidders was Hall Ambulance Service, the low bidder.

10. SLAS Ambulance did submit claims to the county that it was entitled to the contract award on the basis that it was the only bidder to submit a timely bid, and that it was the lowest bidder. (It asked that the Hall Ambulance Service bid not be considered on the separate assertion that its bid formula did not follow a critical cost factor format required by the RFP.) Insofar as can be determined, San Luis Ambulance has not pursued that claim since the awarding of the contract to Five Cities Ambulance.

11. On June 13, and June 20, 1997 APOC met to consider the four bids. On June 20, the full APOC committee met, received, and unanimously adopted its subcommittee report resulting from the June 13 meeting. The APOC subcommittee consisted of:

Bob Hunt, City Manager, Arroyo Grande, Cities appointee.
Bob Neumann, Fire Chief, City of San Luis Obispo, Cities appointee.
Tom Lynch, EMSA Executive Director, County appointee.
Jeff Hamm, Deputy Director, County Health Agency, County appointee.

Jeff Hamm later states, in a September 18, 1997 letter, that he authored the APOC subcommittee report presented on June 20, 1997, and as a member of APOC was part of the unanimous vote to adopt the recommendations thereof. Nonetheless, in his capacity as county staff, Jeff Hamm recommended against awarding the contract to Hall Ambulance and advocated the award to FCAS. The APOC recommendation was to award the south county ambulance service contract to Hall Ambulance Service. The contract suggested by APOC contained specific provisions, agreed to by Hall Ambulance Service, that addressed the initial concerns APOC had with their proposal.

12. On July 15, 1997 the Board of Supervisors considered the matter of the Contract for Ambulance Service in the South County. The bidders were before the Board and various issues were raised. These issues included concern about the bid process; the economic and institutional health of FCAS and a possible takeover by Golden Empire Ambulance; legal action by FCAS asserting a right to be "grandfathered" in as the South County provider; Hall Ambulance Service's low bid position; and the June 20, 1997 APOC recommendation that Hall Ambulance Service qualified for and should be awarded the contract. Staff presented a request for a five-month extension of the current interim agreement with FCAS so that the presented issues could be studied.

13. On August 12, 1997 Staff presented its report, requested by the Board of Supervisors, on the open issues at the conclusion of the July 15, 1997 meeting. This August 12, 1997 report, not including its exhibits, is attached hereto as Exhibit C.

14. On September 2, 1997 the Board of Supervisors met in Closed Session to consider the litigation on the ambulance contract brought by FCAS against the County of San Luis Obispo.

    On December 2, 1997 the county awarded the ambulance service contract to FCAS. One of the stated considerations, contained in the body of the contract, was a settlement and dismissal of the FCAS litigation against the county. This contract did, in addition, contain performance requirements and gave the county the right to terminate it if FCAS did not meet prescribed performance standards.

15. The Agreement Designating Ambulance Provider, December 12, 1997, takes up most of the first three pages to recite an alleged factual basis for the lawsuit by FCAS, and the settlement thereof as justification for the Agreement. Additional recitals allege factual justification for considering FCAS as the legitimate signatory on the Contract and the ultimate provider of

ambulance service to South County. The first part of this recital will pass as a statement of consideration for the dismissal of the lawsuit. However, should one question that perhaps "The gentleman doth protest too much, me thinks" when one considers the reason for the recital of entity status?

16. As a postscript, the Grand Jury has received reports, in response to inquiry, that the current service ofFCAS is within the prescribed performance standards. As a consequence, the Grand Jury has elected not to inquire into the allegations that Five Cities Ambulance is in essence controlled by Golden Empire Ambulance. If true, it is a breach of contract and a matter for the county, not this Grand Jury, to pursue.

CONCLUSIONS

1. The Grand Jury concludes that staff analysis of the standards contained in the initial five- year ambulance service agreement are valid standards. This Grand Jury report attempts to summarize whether or not these lofty ideals appear to be the motivation behind the awarding of the ambulance contract for the South County service area. (See Finding #3 for a quoted statement of these standards.)

2. A clear preponderance of the reviewed documents and statements support a conclusion that, leading up to September 1996, the service record of FCAS does not instill confidence in its ability to provide the service required under the adopted EMS Plan.

3. The county's decision to call for an RFP rather than a straight out award of the South County contract to FCAS addressed a number of reasonable and valid concerns. Included in these were concerns that county ambulance services not be concentrated too heavily in a single provider (SLAS), that the past service history of FCAS was a cause for concern, and the potential for attracting a more qualified and/or economical provider for South County.

4. The APOC recommendation suggesting award of the ambulance contract to Hall Ambulance Service was worthy of consideration by the Board of Supervisors. The service issues in the Hall Ambulance Service proposal had been adequately addressed by the proposed contract provisions worked out by APOC. (The contract provisions worked out were addressed in much the same fashion as the concerns inherent in the final FCAS contract.)

5. The RFP, as advertised, created a lot of unnecessary confusion and potential for litigation. Confusion was created as to the initial closure date for the RFP. Arguably the amendment extended the proposal closure date after it had expired. Also, the Amendment, on its face, extended only to those entities who had already submitted proposals prior to the closure date. Under either analysis, SLAS submitted the sole proposal under the published terms of the RFP and its amendment.

6. The RFP process, by its very nature, is an invitation to submit a proposal. It does not create any legal right in a proposer until acceptance by the county. Thus, the Board of Supervisors had the legal right to reject any and all proposals, and to ultimately award the ambulance

service contract to the entity it deemed best suited to serve the public needs. (This last statement ignores the claim of FCAS, addressed in the next conclusion, that it was legally entitled to the contract.) However, this Grand Jury concludes there are substantial reasons to question the motives and actions of staff and the Board of Supervisors in the award of the contract. If one follows the actions of staff, these actions give the appearance of a pre-determination to award the ambulance service contract to FCAS, and the appearance that county action after the June and October 1996 recommendations of APOC was mostly sham.

7. An argument can be made that the county was justified in awarding the ambulance service contract to FCAS to avoid litigation. A legal action had been filed by FCAS claiming a legal right to the service contract. In any event, the Board of Supervisors' records clearly indicate that the settlement of the lawsuit was stated as a major consideration in the decision to award the ambulance service contract to FCAS. This Grand Jury expresses no opinion on the validity of the FCAS lawsuit, or the awarding of the ambulance contract in settlement thereof. This Grand Jury expects that competent lawyers could advance plausible positions on both sides of the issue.

   In view of the potential risk to the health and safety of South County residents from less than optimum ambulance service, the avoidance of a lawsuit seems like a poor trade off.

8. Again, as a final postscript, some might argue that "all's well that ends well." If so, the quality of current ambulance service in South County appears to justify the means. As part of this conclusion, the information before this Grand Jury could support the argument that the "true" provider of South County ambulance service is an entity known as Golden Empire who has admittedly provided financial, personnel, consulting and logistic support to FCAS.

RECOMMENDATIONS

Because a good number of the "Conclusions" above are presented as arguments on many facets of the inquiry, the Grand Jury has not undertaken a recommendation for each conclusion. The following recommendations, however, are proposed for future situations where similar conditions exist:

1. The Board of Supervisors should be circumspect in providing open and public comment on all staff and advisory body recommendations, particularly where there is a conflict in their respective recommendations. The recommendations of advisory bodies should not be lightly cast aside.

2. The RFP process, if used, should be expected to yield a proposal which the Board of Supervisors can accept. If not, this process should not be used. It should contain the necessary performance standards and provisions to enable the submission of acceptable proposals. Clearly stated guidelines should be set forth that delineate acceptance procedures and methods of communication thereof.

3. The Board of Supervisors should make every effort to avoid the appearance of impropriety in their decision making process.

Fire Chiefs Association of San Luis Obispo Count

In association with the California Fire Chiefs Association

TO: Board of Supervisors

DATE: January 21, 1997

SUBJECT: APOC Recommendation Ambulance Provider for the South County

After reviewing the County Administrators Staff report pertaining to the South County's Ambulance Provider Recommendations, many SLO County Fire Chiefs have expressed several concerns that we felt, must be expressed. I will briefly address just a few.

The SLO County Fire Chiefs began to address the poor performance of ambulance service in the South County in 1988. At that time there were state performance and equipment standards that the County Chiefs and the County EMSA determined were not being adhered to. Every effort was made to address those deficiencies, but for the most part, the EMSA and County Chiefs did not have any notable success until 1993 when state laws pertaining to Emergency Medical Services (EMS) began to change and the county formed the Ambulance Performance Operations Committee (APOC). At that time, the Chiefs primary focus was to establish performance and equipment standards, for which a provider would be held accountable. Cost recovery was secondary. We felt that with these standards, supported by the Board of Supervisors, the South County would be able to have the same excellent level of service as provided by San Luis and Cambria Ambulance Services. After the standards were adopted, financial concerns met, and the service zones established, both San Luis and Cambria Ambulance Services were immediately accepted. Five Cities Ambulance on the other hand, has been given "one more last chance", more times than we care to remember, to meet the criteria established.

APOC is comprised of some members that are experts in regard to field medicine/health care. These members, and others, felt that the south county should no longer have to endure a lower standard than other parts of the county. It is felt that the entire county should be afforded the same excellent service. Therefore, they voted to not enter into an agreement with Five Cities Ambulance Service.

The County Fire Chiefs find it difficult to believe that the years of hard work by so many, could be disregarded, as the County Administrators report recommends (report dated Jan 21, 1997). We hope that you will listen to the experts you have appointed on this issue, because, on the issue of health care, there are few second chances.

Respectfully submitted,

Michael P. McCain

Michael P. McCain
President

EXHIBIT A

COUNTY OF SAN LUIS OBISPO
Department of General Services
COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5200
DUANE P. LEIB, DIRECTOR

OFFICE OF CENTRAL SERVICES
May 8, 1997
AMBULANCE SERVICES
REQUEST FOR PROPOSAL NO. PS-498
ADDENDUM NO. ONE

1. Please note the following changes to Request for Proposal (RFP) No. PS-498. All changes shall be incorporated in and become part of the respective Proposal.

   New opening date of MAY 27, 1997

2. In order that all interested bidders may consider these changes, Proposal No. PS-498 originally scheduled to be opened on May 12, 1997 is now amended to be scheduled to be opened on May 27, 1997. Any bidder who has already forwarded his proposal and desires to make corrections or changes may request his proposal be returned to him. If corrections are made, a new or revised proposal must be received at the Office of Central Services, County Government Center, 4th Floor Courthouse Annex, Room No. 460, San Luis Obispo, California 93408, by the TIME AND HOUR STATED IN THIS PARAGRAPH.

3. All other specifications, provisions, and conditions remain unchanged.

JACK MARKEY-BUYER

ACKNOWLEDGEMENT

Dated

The foregoing addendum is hereby acknowledged and was considered in final submission of Proposal No. PS-498, to be opened on May 27, 1997.

Bidder

Authorized Signature

PLEASE SIGN ACKNOWLEDGEMENT AND RETURN WITH BID.

TOTAL P.01

EXHIBIT B

County of San Luis Obispo

'OVERNMENT CENTER, RM. 370 ▪ SAN LUIS OBISPO, CALIFORNIA 93408 ▪ (805) 781-5011

OFFICE OF THE
COUNTY ADMINISTRATOR

TO: BOARD OF SUPERVISORS

DATE: AUGUST 12, 1997

UBJECT: REPORT CONCERNING REQUEST OR PROPOSAL (R P) PROCESS OR AMBULANCE SERVICES IN THE SOUTHERN AMBULANCE SERVICE AREA

ummary:

t your Board meeting of July 15, 1997 a report was presented which recommended an extension of current interim agreement with Five Cities Ambulance Service, Inc.(FACS) for the provision of bulance service in the Southern Ambulance Service Area of the County. After considerable scussion concerning the RFP process undertaken to select a service provider for this area, your Board cted a follow-up report be prepared which provided a chronological listing of the process and, in ition, answer various questions which were raised during the course of the discussion. This report ponds to that direction.

commendation:

ecommended that your Board receive and file this report.

ussion:

uary of this year we presented a report to your Board which listed options for designating an ance provider for the southern portion of the county. Those options were:

1. Approve an agreement with Five Cities Ambulance for the provision of the service; or

2. Approve an extension of an existing interim agreement with Five Cities Ambulance, and direct staff to conduct a competitive process to select an ambulance provider for the southern ambulance service area.

oard chose option #2, and staff proceeded with a Request for Proposal (RFP) process aimed cting a provider with which to enter into a five year agreement. That process resulted in the nce Performance Operating Committee (APOC), that body which has the responsibility for your Board on ambulance matters, determining that a provider other than the current one be d the contract. This recommendation resulted in legal challenges by Five Cities Ambulance. e need to deal with the litigation issues, staff returned to your Board on July 15, 1997 to nd that the existing interim agreement with Five Cities Ambulance be extended for an

COPY

... months.

During discussion on this issue, various questions were raised about how the RFP process was conducted. This resulted in direction being given by your Board that a report be brought back in thirty (30) days which addressed these questions, and also included a detailed chronology of the RFP process. We noted the various questions during the course of the meeting of the 15th and upon our review of the meeting tape. Those questions, along with our response, are shown on Attachment A. The chronology of the RFP process is shown on Attachment B.

The information contained on these attachments, I believe, clearly points out that all parties in the RFP process were kept fully informed throughout. Further, staff and the Proposal Evaluation Committee, a subcommittee of the APOC, were diligent and objective in handling the responses and in the subsequent recommendation as to whom the contract should be awarded. Currently we are in a five month extension period of the interim agreement with Five Cities Ambulance pending the resolution of legal issues which have been raised concerning the RFP process. At the end of this period we will return to your Board with a report on how those issues were decided, and recommendations as to how best to proceed from that point.

Other Agency Involvement:

This report was prepared in coordination with the Health Agency and County Counsel.

Financial Implications:

This is strictly an informational report, requiring no action by the Board. As such it has no impact on the County budget.

incerely,

OBERT E. HENDRIX,
ounty Administrator

achments

Five Cities Ambulance
San Luis Ambulance
Hall Ambulance Service
American Medical Response
Emergency Medical Services Agency

ambrfp2

received
9-2-98

OK place forward to grand jury BM

Oceano Community Services District
1655 Front Street, P. O. Box 599, Oceano, CA 93445 (805) 481-6730 FAX (805) 481-6836

66

AUG 1998
Received
Superior Court
HF

August 20, 1998

The Honorable Barry Hammer
Presiding Judge of the
Superior Court
County Government Center, Room 385
San Luis Obispo, CA 93408

SUBJECT: COMMENTS OF THE OCEANO COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS TO THE GRAND JURY REPORT DATED JUNE 1, 1998

Honorable Judge Hammer:

Pursuant to Penal Code Sections 933(c) and 933.05(a)(b), please accept this letter as the Oceano Community Services District's response to the findings and recommendations contained in the Grand Jury Report dated June 1, 1998.

The Oceano Community Services District Board of Directors did not conduct an independent investigation or interviews regarding the contents of the Grand Jury Report.

FINDINGS

Penal Code Section 933.05 (a) requires a public agency to respond to each finding of the Grand Jury with one of the following:

1. The respondent agrees with the finding; or

2. The respondent disagrees wholly or partially with the finding, in which case the respondent specifies the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

The Board of Directors interprets the Grand Jury Report as making the following findings:

FINDING NO. 1

The general policy of employee conduct applies equally to the conduct of employees and Directors.

RESPONSE:

Agree.

FINDING NO. 2

The alleged conduct of Director Angello towards District employees, as reported by the Grand Jury, is at variance with the meaning or intent of published Oceano Community Services District Policies and Procedures.

RESPONSE:

If the conduct occurred as reported, agree.

Additionally, the Board of Directors has adopted a policy statement regarding the relationship and conduct between Board Members and Staff. A copy of said Policy is attached to this Report.

FINDING NO. 3

That the general consumption and storage of alcoholic beverage at District Office by a Director violates District Policy.

RESPONSE:

Agree.

Additionally, the President has issued a Memorandum to all Directors notifying each Director that the general storage and consumption of alcoholic beverages at District facilities, including the District office, violates District policy.

RECOMMENDATIONS

Section 933.05(b) of the Penal Code requires a local agency to respond to each recommendation with one of the following:

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 a scope and parameters of an analysis or study and a time frame for the matter to be prepared for discussion by the officer or director 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 6 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 thereof.

RECOMMENDATION NO. 1

The General Manager and Staff should be commended for maintaining a professional attitude and atmosphere at the office in spite of the morale problems they are experiencing.

RESPONSE:

The recommendation has been implemented. The Board of Directors appreciates the Grand Jury's confirmation of the Board's selection of its current General Manager, Gina Davis.

RECOMMENDATION NO. 2

The Oceano Community Services District Board of Directors should participate in public agency employee relations training, including but not limited to sensitivity and sexual harassment educational programs.

RESPONSE:

The recommendation has been implemented. The Board of Directors has budgeted $7,200.00 for Board Members to attend educational programs. Additionally, the policy statement regarding the relationship and conduct between Board Members and Staff encourages Directors to attend educational programs emphasizing employee relations. (See attached Board adopted Policy.)

RECOMMENDATION NO. 3

The residents of Oceano should attend Board Meetings of the Oceano Community Services District and request reports on the attitude and morale of District employees, including the District's response to this report. The Board should be asked to respond to these reports and see that a positive work environment is achieved.

RESPONSE:

No implementation required.

Thank you for the opportunity to respond to the Grand Jury Report. This Response was approved by the OCSD Board of Directors on August 19, 1998.

Respectfully submitted,

OCEANO COMMUNITY SERVICES DISTRICT

Richard P. Searcy
Board President

RPS/cj

cc Foreman

OCEANO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 1998-19

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE OCEANO COMMUNITY SERVICES DISTRICT ADOPTING A POLICY STATEMENT FOR RELATIONSHIPS AND CONDUCT BETWEEN THE BOARD MEMBERS AND STAFF

BE IT RESOLVED by the Board of Directors of the Oceano Community Services District as follows:

Section 1. This Board of Directors hereby approves and adopts a Policy entitled "Relationships and Conduct Between Board Members and Staff," a copy of which is attached hereto as Exhibit "A."

Section 2. A copy of said Policy shall be kept by the District Manager. Copies shall be distributed to:

(a) All current District employees and new employees at the time of hire.

(b) All current Directors of the District and new Directors at the time they take office.

Upon the motion of Director Baughman, seconded by Director Brannon, on the following roll call vote:

AYES:	Vice President Baughman, Director Brannon, Director Gallardo, President Searcy
NOES:	None
ABSENT:	None
ABSTAINING:	Director Angello

the foregoing resolution is hereby passed and adopted this 19th day of August, 1998.

Richard P. Searcy

RICHARD P. SEARCY
Board President

ATTEST:

Gina A. Davis

GINA A. DAVIS
Board Secretary

EXHIBIT "A"

POLICY STATEMENT

RELATIONSHIP AND CONDUCT BETWEEN
BOARD MEMBERS AND STAFF

It is the intent of the Board of Directors to:

A. Maintain control and direction of the District by action of the Board of Directors taken pursuant to the Brown Act.

B. Allow Board Members access to information relative to the running of the District.

C. Protect staff from undue influence, threats, and/or pressure from individual Board Members.

D. Allow staff to execute priorities given by management and Board of Directors without fear of reprisal.

E. Encourage Board Members to attend Special District Board Administration programs and other programs that emphasize employee relationships.

Therefore, a policy guiding the conduct between Board Members and staff is hereby established as follows:

I. BOARD OF DIRECTORS

(a) The full Board of Directors by action taken pursuant to The Brown Act retains absolute power to set policy, direct staff, and conduct the business of the District.

(b) Individual members of the Board of Directors shall not attempt to pressure and/or influence staff decisions, recommendations, workloads, schedules, and priorities.

(c) If a Board Member wishes to influence the actions, decisions, recommendations, workloads, work schedules, and priorities of staff, that member must prevail upon the Board of Directors to do so as a matter of Board policy, pursuant to The Brown Act.

(d) Individual Board Members, by making a request to the General Manager or Administrative Assistant, shall have access to information relative to the operation of the District, including but not limited to statistical information, information serving as a basis for certain actions of staff, justifications for staff recommendations, etc. Board Members shall receive the cooperation and candor of the General Manager or the Administrative Assistant in being provided with the requested information.

(e) Individual Board Members are encouraged to attend Special District Board Administration programs and other programs emphasizing employee relationships.

II. STAFF

(a) The Board of Directors recognizes that the primary function of staff is to execute Board policy and to keep the Board of Directors informed.

(b) Staff shall take guidance and direction only from action taken by the Board of Directors or from appropriate management supervisors as may be the case. Staff shall reject any attempts by individual Board Members to influence or otherwise pressure them into making, changing or otherwise affecting staff decisions or recommendations, or changing work schedules and priorities. Staff shall report such attempts, without fear of reprisal, to the President or the Vice President of the Board of Directors, who shall take appropriate action.

(c) In the event that an employee has been the subject of threats to job security, job advancement or other abusive conduct from a Board Member, the employee shall report such conduct in writing and without fear of reprisal to the President or the Vice President of the Board of Directors, or to the Grand Jury directly, who shall investigate the complaint and take further necessary action.

(d) The General Manager or the Administrative Assistant shall timely provide individual Board Member with requested information, including, but not limited to, statistical information, information serving as a basis for certain actions by staff, justifications for staff recommendations, etc. If the General Manager or the Administrative Assistant feels that such information would be of interest to other Board Members, he/she shall see that the appropriate distribution is made.

(e) If the General Manager or Administrative Assistant cannot timely provide the requested information by reason of information deficiency, or major interruption in work schedules, workloads, and priorities, then the General Manager or Administrative Assistant shall inform the individual Board Member why the information is not or cannot be made available. The General Manager shall consider other means that are in his/her judgment feasible to provide the Board Member with the requested information.

(f) If the information still cannot be provided, either the General Manager or the Board Member shall place an item on the Board agenda for Board direction as to the Board's desire and directed method of providing the information.

III. PUBLICATION OF POLICY

(a) Copies of this Policy shall be distributed to:

1. All current District employees and new employees at the time of hire.
2. All current Directors of the District and new Directors at the time they take office.

(b) The General Manager shall be available to answer questions of District employees regarding the District Policy on relationship and conduct between Board Members and staff.

OCSD
Memorandum

To: Board of Directors

From: Richard P. Searcy, Board President

cc: Jon S. Seitz, District Legal Counsel

Date: July 31, 1998

Re: ALCOHOL ON DISTRICT PREMISES

The District's Substance Abuse Policy adopted on April 26, 1995, states in relevant part:

I. Prohibited Conduct
   A. ...
   B. ...
   C. Possessing or drinking alcoholic beverages while on duty and/or on the premises of the District.

The General Manager, under limited circumstances, can allow alcoholic beverages on the premises of the District for "off-duty events." The General Manager's authorization must be in writing.

It is clear to me that "off-duty events" is meant to apply to specific occurrences or programs such as pre-planned Volunteer Firefighters' barbecues and/or wedding receptions.

Each Director is hereby put on notice that the storage and/or consumption of alcoholic beverages, except for the above-referenced limited circumstances, is a violation of District policy and will not be tolerated.

Richard P. Searcy, President
Oceano Community Services District
Board of Directors

RPS:gad

received
8-11-98

County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 ▪ SAN LUIS OBISPO, CALIFORNIA 93408 ▪ (805) 781-5011

OFFICE OF THE
COUNTY ADMINISTRATOR

TO: SUPERIOR COURT PRESIDING JUDGE

FROM: DAVID EDGE, COUNTY ADMINISTRATOR

DATE: AUGUST 7, 1998

SUBJECT: RESPONSE TO GRAND JURY REPORT ON VACATION RENTALS (TRANSIENT OCCUPANCY TAX - SAN LUIS OBISPO COUNTY.)

On June 10, 1998, the Grand Jury issued a report on the subject of the Vacation Rentals (Transient Occupancy Tax - San Luis Obispo County) statue requires written responses from departments that are the subject of Grand Jury Report findings and recommendations. According to the law, responses are to be directed to the Superior Court Presiding Judge with sixty days.

The attached documentation is submitted to you with this memorandum to serve as the Department's response to the Grand Jury report. Please be sure to forward this information to the Grand Jury for their records and disposition. Thank you.

c. Board of Supervisors

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

ALEX HINDS
DIRECTOR

BRYCE TINGLE
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

BARNEY MCCAY
CHIEF BUILDING OFFICIAL

DATE: JULY 15, 1998

TO: DAVID EDGE, COUNTY ADMINISTRATIVE OFFICER

FROM: ALEX HINDS, DIRECTOR, PLANNING AND BUILDING

SUBJECT: RESPONSE TO GRAND JURY REPORT ON VACATION RENTALS (TRANSIENT OCCUPANCY TAX - SAN LUIS OBISPO COUNTY)

SUMMARY

On June 22, 1998, the Grand Jury issued a report on *Vacation Rentals* (Transient Occupancy Tax, San Luis Obispo County). This response addresses the conclusions and recommendations pertaining to the Planning and Building Department (Planning Department). The issue of tax collection will be handled separately by the Office of the County Tax Collector. The Grand Jury concluded that County ordinances and enforcement procedures do not adequately address *vacation rentals*, and that the Board of Supervisors should consider adopting more effective regulations after seeking substantial public comment on the issue. The Planning Department believes that the Grand Jury has prepared a thoughtful and well reasoned report and is in substantial agreement with their conclusions and recommendations.

RECOMMENDATION

It is recommended that this report serve as the Planning Department's response to the Grand Jury Report on Vacation Rentals, and direct that it be forwarded to the Presiding Judge of the Superior Court.

CONCLUSIONS

Grand Jury Conclusion (1):

INTERPRETATION AND IMPLEMENTATION OF THE ORDINANCE

The Transient Occupancy Tax ordinance, as written and interpreted, is flawed. It is difficult to read and uncertain as to meaning. It is dependent upon county staff for content interpretation and enforcement determination. This may, in part, have created a de facto change in county zoning law without due process of law.

There is a need for reliable lists, surveys, data, etc. that addresses such essential issues as the numbers of rentals in specific geographical locations, density factors, turnover factors, numbers or percentage of operators collecting and reporting the mandated tax, the incidence of complaints of noise/nuisance type actions on the part of transient occupants, etc. The county has not implemented any study to address these issues. A determination regarding maintenance, elimination or amendment of the county Transient Occupancy Tax ordinance would benefit from reliable information in these categories.

Evenhanded application and enforcement of the seven day minimal rental rule is clearly lacking. Therefore, a de facto tenancy changeover that occurs every three days, plus or minus, is being imposed upon surrounding homeowners.

Constitutional issues inherent in the zoning questions posed by the Transient Occupancy Tax have been decided by the courts. Under existing constitutional law, the county can, by a properly formulated ordinance, either allow and tax these vacation rentals or totally ban them.

Response:

The Planning Department concurs with the Grand Jury that existing ordinances are difficult to understand and enforce. Specifically, the term *vacation rental* is not defined or codified in the county land use ordinance. Staff has made an interpretation of this use based on the introductory language of the San Luis Obispo County Code (SLOCC), section 23.08.261 (Bed and Breakfast Facilities), which states in part:

> The provisions of this section do not apply to the rental of bedrooms in a residence to the same tenant(s) for longer than seven days, although the county tax collector may still require special fees and/or licensing for any residential rental less than 30 days.

From this preamble to the Bed and Breakfast Facilities regulatory ordinances, the determination has been made that vacation rentals are such uses that are rentals of rooms, or the entire residence in zoning classifications other than commercial, for a minimum of seven to a maximum of 30 days. The Planning Department has historically interpreted this to mean that only one tenant(s) per week is allowed and agrees that this use deserves more definition, specificity and clarity.

Grand Jury Conclusion (2):

<u>APPLICATION AND ENFORCEMENT</u>

County enforcement staff is underfinanced (understaffed) and, as a consequence, it cannot implement any meaningful procedures that could change the existing situation. The cost of providing adequate staff/funding would probably exceed revenue to be generated from the tax.

Procedures mandated by the existing ordinance, apparently designed to provide a means for adequate enforcement, are not in place. For example, the mandated registration of transient operators and the issuance of a "transient occupancy registration certificate" to the operators is not being done.

Currently, collection of the mandated tax is almost totally dependent upon voluntary compliance by the owners/agents who rent the property. Estimates of compliance vary and are unreliable, in part, because there is no reliable list of rentals or frequency of rentals by owners. The only semi-reliable information comes from logical deductions to be made from the gross revenues reported by those properties handled by local real estate managers. There are no available reports on individual properties.

Response:

The Grand Jury is correct that currently there is not sufficient staff resources or data for the County to effectively respond to concerns regarding vacation rentals in residential neighborhoods. The Planning Department is currently staffed with three full-time resource protection specialists (code enforcement officers), to handle all complaints on land-use, environmental and building violations in the unincorporated areas. A comprehensive enforcement program for vacation rentals would require the hiring of additional staff. Since this is not currently cost effective, the department has been relying on voluntary compliance and reporting of transient occupancy tax (TOT).

The departmental policy on the opening of cases for investigation is that there should first be a written and signed complaint. The exception to this is when there are obvious violations that could directly and acutely affect public health and safety. To date we have received written complaints on only two properties which have been allegedly illegally or improperly conducting business as vacation rentals. These two properties have been thoroughly investigated and monitored within our resources. In addition, the department attempts to assist community advisory groups with community clean-ups or other local priorities where possible.

Grand Jury Conclusion (3):

SUPPLY AND DEMAND

There is a demand for "vacation rentals" in the coastal areas. This demand appears to be two-fold: First, available hotel type beds are fully rented in the high season. This also appears to be true of "vacation rental" bed space. Secondly, there appears to be a separate, distinct demand for private home vacation rentals.

Due to demand, the vacation rentals occur primarily within the coastal areas zoned for single family residences. This demand has created conditions that are causing an outcry by some permanent residents. This outcry centers primarily upon complaints that the vacation rentals are disturbing the peace and tranquility they believe should be inherent in an area zoned as single family residential.
The vacation rental industry does indeed provide an economic benefit to the local economy. However it additionally may cause difficulty with neighbors who have an expectation of quiet and reasonable behavior in their communities.

Response:

The Planning Department concurs that vacation rentals occur primarily in coastal areas zoned for single-family residences and that despite economic benefits, neighborhood land use conflicts have occurred. The

Planning Department will continue to work with the vacation rental industry in Cayucos and Cambria, as well as local advisory groups in an effort to determine an efficient way to reduce the impact of these rentals on full-time residents of the area.

Grand Jury Conclusion (4):

<u>*IMPACT ON THE COMMUNITY*</u>

Many local, coastal businesses are in place to service the "vacation rental" business. Substantial additional economic benefit, above what the hotel type businesses generate, is injected into the local economies by these rentals. Further, such rental does provide home owners, who rent these facilities, with a means to defray significant costs of ownership.

Those who oppose vacation rentals are mostly full-time coastal residents. They complain of noise, congestion, and other guest activities of nuisance type. It appears that a substantial number of residents believe that short term vacation rentals are incompatible with areas zoned to single family residential.

Those who support vacation rentals assert that a denial of their ability to freely use (rent) their property is a denial of their rights. That such rental is the only way a substantial number of owners can afford to acquire their own "space in the sun." Presented numbers indicate that these rentals provide substantial economic benefit to the business community, and that the opportunity to rent increases property values.

Response:

Again, the Planning Department agrees that there are economic benefits, neighborhood conflicts, and property rights issues which should be addressed. The Planning Department is proposing a review of vacation rental regulations (including associated public hearings) on its priority list of work assignments for consideration by the Board of Supervisors.

GRAND JURY RECOMMENDATIONS

1. *The intent and purpose of the current Transient Occupancy Tax ordinance should be reviewed by the Board of Supervisors. First, the Board might want to consider whether or not short term vacation rentals should be allowed in areas zoned to single family residences. If allowed, the Board might consider a full re-working of the existing ordinance to clearly define the intent and application thereof. Workable procedures should be established to insure and verify compliance therewith. If tax revenue is a primary or a significant motivating force, staff should be directed to initially prepare a cost/benefit analysis of enforcement costs/revenue.*

Response:

The Planning Department agrees that the Board of Supervisors should determine whether to authorize the processing of ordinance amendments pertaining to vacation rentals. We will also work with the Office of the Tax Collector to determine the most efficient method for auditing tax revenues from vacation rentals as well as investigate the costs/benefits of additional enforcement. As stated by the Grand Jury, it is ultimately the responsibility of the Board of Supervisors to hold public hearings and determine if vacation rentals should be allowed in areas zoned Residential Single Family.

2 *Any revision to the Transient Occupancy Tax ordinance should be drafted to insure that the permanent residents, in single family zones, are not overly impacted by short term rentals. Thus, the ordinance should clearly define such things as permissible lengths of stay, allowable number of rentals per unit of time (e.g. per month), the allowable number of units per geographic area (e.g. within a given linear or circumferential distance), noise levels within defined time standards, etc. Standards to insure self regulation compliance with the mandated restrictions should also be imposed; these standards might require that all rentals be handled by local, professional managers who would have to assume the burden of insuring compliance. If a rental license is required for each rental, the license could be subject o revocation in the event of repeated violations.*

Other jurisdictions have dealt with the indicated issues, and might be consulted to determine the format of a workable ordinance designed to reasonably protect the interests of all citizens.

Response:

The Planning Department agrees that the issue of vacation rentals needs to be clearly defined and codified in the Coastal Land Use Ordinance and that standards should be considered to enable more effective self-regulation. In addition, we concur that other jurisdictions should be consulted in order to learn from their experiences. These changes would necessitate that the required public hearings are held, and that the details of such ordinance changes are thoroughly addressed through public and legislative discourse. The recommendations of the Grand Jury are duly noted and will be included in these hearings and reports.

3. *All information, from all sources, received by the Grand Jury demonstrates there is a clear demand for short term vacation rentals within the county, primarily the coastal areas. Further, this demand translates into substantial economic benefit to the local service businesses and to individual owners who are not full-time occupants of their homes. The contrary position is advanced by the legitimate concerns of the full time residents whose peace and privacy is apt to be unduly compromised by over dense, frequent short term rentals. Thus, a re-crafting of the current Transient Occupancy Tax ordinance should strive to balance, as much as possible, these conflicting, valid interests.*

Response:

The Planning Department agrees with the Grand Jury that an attempt should be made to balance valid, conflicting interests and we will propose working with the Tax Collector, community advisory councils, the vacation rental industry and local residents on this matter.

4 *Ignoring the tax cost/benefit issue, this Grand Jury's Findings and Conclusions indicate that vacation rental income produces substantial economic benefit to the affected communities. It is submitted that most citizens would agree that the ambiance of Vacation Rentals, Bed and Breakfast*

and Home Stays (by their nature mostly located within single family residential areas) serves a human need, not served by hotel/motel facilities. Some full-time coastal residents are upset that commercial type activity is occurring near their idyllic residence; others assert that a denial of the free use (rental) of their property is a denial of a basic property right. The courts have determined that the county can, by a proper ordinance, either totally ban residential vacation rentals or allow and regulate such rentals. Thus, in the end, the existence and/or character of residential vacation rentals is a political/sociological issue which should be decided for the optimum benefit of most people, while extending reasonable protection to the minority. This Grand Jury recommends that the Board of Supervisors seek substantial public comment on the issue when the ordinance is brought up for revision or elimination.

Response:

The Planning Department concurs that both sides of this controversy have raised valid issues which will require substantial public comment and public hearings. It is further recommended that during these hearings, alternative ordinance revisions should be considered in order to improve the current situation.

FRANK L. FREITAS, C.P.A.
DEPARTMENT ADMINISTRATOR

TREASURER
TAX COLLECTOR
PUBLIC ADMINISTRATOR
SAN LUIS OBISPO COUNTY

P.O. BOX 1149 • ROOM 200 COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO, CALIFORNIA 93406-1149 • TELEPHONE (805) 781-5842
FAX (805) 781-1079

TO: DAVID EDGE, COUNTY ADMINISTRATOR

FROM: FRANK L. FREITAS Frank
TREASURER, TAX COLLECTOR, PUBLIC ADMINISTRATOR

DATE: JULY 22, 1998

SUBJECT: RESPONSE TO GRAND JURY REPORT ON VACATION RENTALS (TRANSIENT OCCUPANCY TAX)

This is in response to the Grand Jury's report on vacation rentals. We concur with the Grand Jury's recommendation to proceed with a resolution to the identified problems.

It should be noted that the report makes reference to Transient Occupancy Tax as being calculated on 6% of gross revenue. Transient Occupancy Tax is calculated at a rate of 9% of gross revenue.

The Tax Collector's Department will be happy to participate in the process of clarifying and revising Title 3 and Title 22, with regard to transient lodging and the collection of Transient Occupancy Tax.

Please let me know how we can assist with the revision process. If you have any questions, please contact me at extension 5843.

c: Bob Grayson, Administrative Analyst

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