MONTEREY COUNTY CIVIL GRAND JURY

2019/2020 FINAL REPORT

June 29, 2020

MONTEREY COUNTY

CIVIL GRAND JURY

2019/20

FINAL REPORT

JUNE 29, 2020

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MONTEREY COUNTY CIVIL GRAND JURY

P.O. Box 414
Salinas, CA 93902
Telephone: (831) 883-7553

June 29, 2020

The Honorable Stephanie E. Hulsey
Judge, Superior Court of California
County of Monterey
240 Church Street
Salinas, CA 93901

Re: 2019/20 Monterey County Civil Grand Jury Final Report

Dear Judge Hulsey:

On behalf of my fellow jurors on the 2019/20 Monterey County Civil Grand Jury, I am pleased to present our Final Report. The members of the jury are civic-minded citizens who have dedicated their one-year term of service to evaluating how well government is working in Monterey County. The Civil Grand Jury hopes these reports will shine light on and give guidance to the government agencies investigated. The jurors devoted many long hours collaborating, investigating, researching, verifying, and writing these reports which we hope will make a difference within our county.

The global COVID-19 pandemic and the subsequent Shelter-in-Place (SIP) order for Monterey County changed the day-to-day lives of all Monterey County residents and impacted how the Civil Grand Jury operated in the last trimester of our term. Even before the SIP order came into effect, the Civil Grand Jury began testing virtual meeting platforms, a testament to the group's attention to current events and our determination to finish the work we had started as seamlessly as possible.

It has been an honor to serve with this dedicated and committed team of fellow jurors. The experience of being on the Civil Grand Jury underscored the important role of citizen oversight in local government. We thank you for your initial charge to us to diligently and impartially conduct our investigations in the furtherance of the general good as we began our term and for your support throughout the year. We extend a special thank you to County Counsel Leslie J. Girard who helped answer our legal questions, and to Sandra Ontiveros, Management Analyst with the Office of the County Counsel, for her dedicated support and guidance in achieving our goals.

We thank you for the privilege of serving our fellow citizens.

Respectfully,

Maria A.Y. Garcia, Foreperson
2019/2020 Monterey County Civil Grand Jury

2019/20 MONTEREY COUNTY CIVIL GRAND JURY ROSTER

OFFICERS

Foreperson	Maria A.Y. Garcia
Foreperson Pro Tem	Mark B. Chakwin
Recording Secretary	Marisol Gonzalez
Corresponding Secretary	Carol Greenwald
Treasurer	Richard Busman
Librarian/Archivist	Georgette Beyah
Sergeant-At-Arms	Juergen Smith

JURORS

Georgette Beyah	Monterey
Mike Brown	Carmel
Richard Busman	Carmel
Mark B. Chakwin	Pacific Grove
Elizabeth Downey	Monterey
Maria A.Y. Garcia	Marina
John Geiss	Monterey
Marisol Gonzalez	Salinas
Carol Greenwald	Monterey
Jody Hansen	Carmel
Marianne Howard	Monterey
Grant Hunt	Monterey
John LaLonde	Pacific Grove
Angeleke Levy	Salinas
Daniel Powers	Salinas
Sis. Rosa Dolores Rodriguez	Salinas
Juergen Smith	Greenfield
Nancy Towne	Seaside



(left to right)

First row: Marisol Gonzalez, Maria A. Y. Garcia, Grant Hunt, Juergen Smith

Second row: Mike Brown, John LaLonde, Elizabeth (Libby) Downey, Daniel Powers

Third row: Mark B. Chakwin, Sister Rosa Dolores Rodriguez, John Geiss, Carol Greenwald

Fourth row: Richard Busman, Jody Hansen, Marianne Howard, Georgette Beyah

Fifth row: Nancy Towne, Angeleke Levy

2019/20 MONTEREY COUNTY CIVIL GRAND JURY

MISSION STATEMENT



The principal mission of the Monterey County Civil Grand Jury is to serve the residents by performing a watchdog function in reviewing and evaluating the performance of county, municipal and special district agencies within Monterey County. The Civil Grand Jury accomplishes this mission by conducting selected independent inquiries of agency operations and annually publishing a report of its findings, recommendations, and commendations.

CIVIL GRAND JURY MISSION AND RESPONSE REQUIREMENTS

The primary mission of a civil grand jury in the State of California is to examine county and city governments, as well as districts and other offices, in order to ensure that the responsibilities of these entities are conducted lawfully and efficiently. The civil grand jury is also responsible for recommending measures for improving the functioning and accountability of these organizations, which are intended to serve the public interest.

Jury Selection

Each year, citizens of the county who apply for civil grand jury service are invited to an orientation session for an overview of the process. The court then interviews them, and approximately 40 names are forwarded for inclusion in the annual civil grand jury lottery. During the lottery, 19 panel members are selected, with the remaining to serve as alternates. Those selected to serve are sworn in and instructed to their charge by the presiding judge. Civil grand jurors take an oath of confidentiality regarding any civil grand jury matters for the rest of their lives.

Investigations

Each civil grand jury sets its own rules of procedures and creates committees to investigate and create reports. California Penal Code section 925 states:

> The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving ex-officio capacity as officers of the districts.

Additionally, Section 919 prescribes that:

> The grand jury shall inquire into the condition and management of the public prisons within the county, including inquiring into willful or corrupt misconduct in office of public officers of every description within the county.

The public may submit directly to the Monterey County Civil Grand Jury complaints requesting that it investigate issues of concern regarding public agencies or official in Monterey County. The public may request complaint forms by contacting the office of the Monterey County Civil Grand Jury at (831) 883-7553 or through the Grand Jury's website address at www.monterey.courts.ca.gov/grandjury or http://www.co.monterey.ca.us/government/participate-get-involved/civil-grand-jury.

Grand juries conduct proceedings behind closed doors, as required by law, primarily for the protection of people who file complaints or who testify during investigations. All who appear as witnesses or communicate in writing with a grand jury are protected by strict rules of confidentiality, for which violators are subject to legal sanction.

Reports

Section 933(a) of California Penal Code declares:

> Each grand jury shall submit…a final report of its finding and recommendations that pertain to county government matters during the fiscal or calendar year.

The civil grand jury summarizes its findings and makes recommendations in a public report, completed at the end of its yearlong term. Each report is presented to the appropriate department or agency.

Section 933(b) declares:

> One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

Each report is distributed to public officials, libraries, the news media and any entity that is the subject of any of the reports. The public may also view each year's final report through the Monterey County Civil Grand Jury's website at http://www.co.monterey.ca.us/government/participate-get-involved/civil-grand-jury or www.monterey.courts.ca.gov/grandjury.

Content of Responses

Section 933.05 of the California Penal Code declares:

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

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

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

Timeline of Responses

Section 933(c) states:

> No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendation pertaining to matter under the control of that county officer or agency head any and agency or agencies which that officer or agency head supervises or controls…All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury.

Address for Delivery of Responses
The Honorable Stephanie E. Hulsey
Judge of the Superior Court
County of Monterey
240 Church Street
Salinas, CA 93901

CAMP GABILAN #38
Going Out of Business?

SUMMARY

California Penal Code Section 919 requires each Civil Grand Jury to inquire into the condition and management of the public prisons within the county.[1] The Monterey County Civil Grand Jury did not visit Camp Gabilan, a fire camp located in Soledad, but gathered information readily available from government and public media and internet media. The most significant observations were the extent of local services and the declining inmate count. While a decline in a prison population is generally desirable, the declining inmate count at Camp Gabilan has worrisome aspects as well, since a reduction in the population equates to a reduction in the number of firefighting crews that will be available.

BACKGROUND

California State Conservation Camp Program facilities support state, local and even federal government agencies as they respond to emergencies such as fires, floods, and other natural or manmade disasters. According to some reporting, the California Department of Corrections and Rehabilitation (CDCR) fire camps save California an estimated $80 to $100 million a year in firefighting costs with this program.[2] The CDCR, in cooperation with the California Department of Forestry and Fire Protection (CAL FIRE) and the Los Angeles County Fire Department (LAC FIRE), jointly operates 43 conservation camps commonly known as fire camps, located in 27 counties of California. All camps are minimum-security facilities and all camps are staffed with both correctional staff and CAL FIRE staff. The Associate Director of Reception Centers in

[1] https://codes.findlaw.com/ca/penal-code/pen-sect-919.html
[2] Ceballos, A. (2015). Monterey County houses but doesn't supply firefighting inmates. Monterey Herald. (updated 9/11/19). At: https://www.montereyherald.com/2015/08/19/monterey-county-houses-but-doesnt-supply-firefighting-inmates/

the Division of Adult Institutions of the CDCR is responsible for overseeing the fire camps.

Inmates at the California fire camps receive the same entry-level training that CAL FIRE seasonal firefighters receive. The inmates also continue with ongoing training from CAL FIRE throughout the time they are in the program. Inmate handcrews are a significant unit in CAL FIRE's firefighting "ground attack" resources. Their primary function is to construct fire lines by hand in areas where heavy machinery cannot be used because of steep or rocky terrain, or areas that may be considered environmentally sensitive. An inmate must volunteer for the fire camp program; no one is involuntarily assigned to work in a fire camp. Volunteers must have "minimum custody" status, or the lowest classification for inmates (Level 1 inmates), based on their sustained good behavior in prison, their conforming to rules within the prison, and participation in rehabilitative programming.[3] Some conviction offenses automatically disqualify an inmate from participating in the conservation camp assignment program, even if those inmates have minimum custody status. Those convictions include sexual offenses, arson, and any history of escape with force or violence.

Male inmates receive firefighting training at one of four locations: the California Correctional Center in Susanville, the Sierra Conservation Center in Jamestown, the California Men's Colony in San Luis Obispo, and the California Rehabilitation Center in Norco.[4] Female inmates who participate in the conservation camp program receive their firefighting training at the California Institution for Women in Corona. After completing their training they can be assigned to one of two female fire camps. Juvenile offenders also can participate. They are trained at the Pine Grove Conservation Camp in Amador, which accommodates youth up to the age of 25. There is one restriction for juvenile offender participants, and that is only those 18 years of age or older can volunteer for firefighting.

[3] https://www.cdcr.ca.gov/facility-locator/conservation-camps/
[4] https://www.cdcr.ca.gov/facility-locator/conservation-camps/

When not fighting fires, inmate firefighters perform conservation and community service projects such as clearing brush and fallen trees to reduce the chance of fire, maintaining parks, as well as bagging, flood protection and reforestation.[5]

METHODOLOGY

Primary research was conducted by reviewing State Government agency sources. Relevant background was obtained by a review of open source media that focused on County or fire camp issues.

Additional information was gathered in conjunction with the Civil Grand Jury visits to the other prison facilities including: the Monterey County Jail, the Soledad Correctional Training Facility, and the Salinas Valley State Prison.

DISCUSSION



Camp Gabilan #38 is a fire camp located in Soledad, California. Built and opened in January 1986, the camp's primary mission is to provide inmate fire crews for fire suppression missions in the Monterey, San Benito, Santa Clara, and Santa Cruz County areas. Although Camp Gabilan is focused primary on this four-county area, the Camp's crews may be dispatched to anywhere in the state. During winter, the camp also responds to emergency floods and landslides. In addition to fire suppression, the camp has a Mobile Kitchen Unit that is activated when there is a state of emergency. This Mobile Kitchen likewise can be deployed in the four counties or state-wide if necessary.[6]

As mentioned above, Camp Gabilan has a joint staff. The CDCR camp staff consists of 11 law enforcement personnel (1 Lieutenant, 2 Sergeants, and 8 Officers). The corresponding CAL-FIRE staff consists of

[5] ibid.
[6] https://www.cdcr.ca.gov/facility-locator/conservation-camps/gabilan/

a fire captain and 14 firefighter staff. The maximum capacity of Camp Gabilan is 132 inmates. Of the 132 inmates, 102 (77%) are authorized as firefighters and serve in six emergency fire crews. Each fire crew has 17 firefighters.[7] The remaining 30 inmates (23%) constitute staff positions in the camp. The support staff work in the camp only and are not trained to deploy for firefighting.

Camp Gabilan, like all California fire camps, is an integral part of California's firefighting system. The Civil Grand Jury noted numerous media accounts of the Camp Gabilan crews fighting fires in Monterey County and other fires in different parts of the state. During non-emergency periods, when the fire threat is lower, the inmate fire crews provide a workforce for conservation and community service projects in Monterey County. These projects have included:

- In the City of Monterey: Greenbelt fire fuel reduction and habitat restoration including removal of invasive non-native plants, reforestation with native trees and plants, erosion control and greenbelt maintenance.[8]

- At the Marina Dunes: Planting of indigenous flowers, abatement of weeds, and felling dead trees.[9]

- In the Regional State Parks: Felling of dead trees, restoring historical sites, building bridges, clearing hiking trails and taking down footbridges during winter weather.[10]

- In the Del Monte Forest area: Fuel reduction on open space lands of Del Monte Forest and Pebble Beach with the principal focus on thinning pine saplings which spouted as a result of the 1987 Morse Fire in the Huckleberry Hill area.[11]

[7] https://www.fire.ca.gov/media/4938/fireterminology.pdf
[8] https://www.cdcr.ca.gov/facility-locator/conservation-camps/gabilan/
[9] ibid.
[10] ibid.
[11] ibid.

- In the City of Carmel: Flood control and clearing nonindigenous vegetation from waterways.[12]

- In the City of Del Rey Oaks: Cleaning and chipping willows from intersections and waterways.[13]

- Other projects in Monterey County, including firefighting at Federal, State and Regional Parks and at Laguna Seca Raceway.[14]

When not deployed fighting fires or involved in community restoration or fire prevention projects, inmates of Camp Gabilan can participate in “in-camp” projects. The CAL FIRE in-camp projects include vehicle maintenance/repairs, small engine repairs, and even fire hose repair shops. This camp, like other fire camps around the state, also has prisoner support activities such as a hobby program, prison fellowship, saw classes, Alcoholics Anonymous (AA), Narcotics Anonymous (NA), Celebrate Recovery, and music programs. With all the skills and crafts that inmates can learn during their incarceration in the fire camps, they can become qualified to apply for a job with CAL FIRE or the U.S. Forest Service upon their release.[15]

Statistical context

As noted in preceding sections, the California Department of Forestry and Fire Protection (CAL FIRE) responds to all types of emergencies. Significant emergencies are categorized as “incidents” and may include large, extended-day wildfires (10 acres or greater), floods, earthquakes, hazardous material spills, or similar situations.[16] Forest fires represent the bulk of CAL FIRE responses and a snapshot of two years’ forest fire responses is presented in Table 1 (state wide) and Table 2 (Monterey County only).

[12] ibid.
[13] https://www.fire.ca.gov/media/4938/fireterminology.pdf.
[14] ibid.
[15] ibid.
[16] https://www.fire.ca.gov/incidents/

Table 1 California Forest Fire Activity				
Year	**Acres Burned**	**Incidents (named fires)**	**Fatalities**	**Structures Damaged / Destroyed**
2017[17]	1,548,429	9,270	47	10,280
2018[18]	1,963,101	7,639	100	24,226

Table 2 Monterey County Forest Fire Activity				
Year	**Acres Burned**	**Incidents (named fires)**	**Fatalities**	**Structures Damaged / Destroyed**
2017[19]	2,562	15	Unknown	Unknown
2018[20]	5,950	11	Unknown	Unknown

CDCR firefighter - declining numbers

On November 14, 2019, the CDCR website reported that there were approximately 3,700 inmates working at fire camps with about 2,600 (70%) of them fire-line qualified. Less than three months later, on February 10, 2020, the CDCR website updated its website to show a reduction in that force to approximately 3,100 inmates working at fire camps with about 2,200 (71%) of them fire-line qualified.[21] This was a decline of 600 inmates over a three month period and it was not an outlier phenomenon. At least part of this decline in inmates can be attributed to the long-term trend that developed from the California law that sought to reduce prison overcrowding, California AB 109.[22]

[17] https://www.fire.ca.gov/incidents/2017/
[18] https://www.fire.ca.gov/incidents/2018/
[19] https://www.fire.ca.gov/incidents/2017/ (search by county)
[20] https://www.fire.ca.gov/incidents/2018/ (search by county)
[21] https://www.cdcr.ca.gov/facility-locator/conservation-camps/
[22] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB109

The Civil Grand Jury noted some reporting which identified the impact of this bill on California's fire camps as far back as 2016. Increasingly there are fewer inmates to fill the fire camp program.[23] This is also an issue for the four local county areas supported by Camp Gabilan. For example, the Civil Grand Jury noted that on April 3, 2019, there were only a total of 93 inmates assigned to Camp Gabilan. This meant the fire camp was down to 70% of its capacity (132). However, just eight months later (January 2, 2020) the on-hand number of inmates for Camp Gabilan had plunged further to 69 inmates, or 52% of its capacity (132).[24] Even if fire crews were reduced in number to 14 inmate firefighters per crew, a number which has been noted in recent years' media reporting for some fire camps, this would mean that Camp Gabilan could only field approximately three reduced-sized crews in response to a fire incident. A similar, smaller number of inmates, serving in support staff roles, would still remain in the camp and continue to provide support functions.

The Civil Grand Jury noted that the state has been seeking to mitigate this trend with renewed Civilian Conservation Corps (CCC) facilities, expanded in their firefighting role.[25] However, the Civil Grand Jury could not identify a comparable number of CCC facilities or crews to currently substitute for the Camp Gabilan fire camp in our county. Moreover, other programs are unlikely to provide the same level of economic savings while sustaining our environment.[26] Finally, the Civil Grand Jury noted the importance of rehabilitation, restoration, and local community service that is also reduced as the fire camp numbers dwindle and more Level 1 inmates are retained at county prison facilities.

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[23] Thompson, D. (2016 September 18) California Turns to Civilians as Inmate Firefighters Dwindle. *St Louis Post-Dispatch* (MO). p.A7.

[24] https://www.cdcr.ca.gov/facility-locator/conservation-camps/gabilan/

[25] Thompson, 2016

[26] Rogers, D. (2009, Sep-Oct). California's Inmate Firefighting Crews: Providing a Valuable Service. *Corrections Forum*. 18:5. Retrieved from Questia.

Findings

F1. The California State Conservation Camp Program fire camps provide a significant service to California communities, to the local environment, and to the inmates who participate in that program.

F2. Camp Gabilan's ability to support local fire incidents has been reduced without sufficient substitute in Monterey County.

F3. Camp Gabilan's ability to provide local ecological conservation projects has been reduced by the reduction in Camp Gabilan's operating capacity.

Photo Credit.
Page 3. Untitled.
Use: 17 USC § 107 Fair Use
Date: Tuesday May 1, 2012.
Source: CAL FIRE Inyo-Mono-San Bernardino Unit Blog (discontinued)
At: http://calfirebdu.blogspot.com/2012/05/fire-crews-participate-in-annual.html?m=1

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Civil Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

ENHANCING PUBLIC ACCESS TO PESTICIDE USE INFORMATION
An Opportunity for the Agricultural Commissioner's Office

SUMMARY

The agricultural industry in Monterey County is a critical driver of economic activity and provides healthy food to consumers around the globe. In support of that activity, the Monterey County Agricultural Commissioner's website has posted a vast array of information about the use of pesticides, including links to State Agencies and other relevant sources for the use of agricultural pesticides in Monterey County. This information is extensive, but it is currently targeted toward, and most useful to, growers, agricultural workers, pesticide applicators, and other agricultural professionals. Corresponding levels of information on agricultural pesticides that would be useful to County residents, who are not agriculture professionals, is limited. There is an opportunity for the Agricultural Commissioner's Office to enhance its role as a community resource that presents unbiased, scientifically based facts about pesticides.

GLOSSARY

MCACO: Monterey County Agricultural Commissioner's Office

NGO: non-governmental organizations

AI: Active Ingredient

BACKGROUND

A fundamental pillar of Monterey County's economy is agriculture. As one of the nation's top agriculture producers, Monterey County agriculture contributes over $4 billion per year to the County's direct economic output and has a total estimated impact of over $8.1 billion on the local economy, including generating 73,429 jobs.[1] Unlike most

[1] See Langholz & DePaolis. Economic Contributions of Monterey County Agriculture 2014. Pp. 2,3

crops grown across the United States that are machine harvested, the crops grown in Monterey County are dependent upon a skilled labor force.[2] Part of this skilled work force is responsible for the application of crop pesticides.

Pesticides are an important part of commercial agriculture in California. The scope of pesticide use is reflected in the *2017 Pesticide Use Report Highlights* by the California Department of Pesticide Regulation. Page two of that report stated that pesticide use for California in 2017 totaled 204.7 million pounds of Active Ingredients (AIs) and 104.3 million cumulative acres treated.[3] These figures vary yearly, and vary by county as well. For example, the State-wide total pounds of AIs reported in 2017, represented a 2.0 percent decrease from the 2016 figure. Conversely, the 2017 report's total acres treated figure was an increase, year-on-year, by 3.3 percent.[4] Pesticide use figures for Monterey County, on the other hand, declined for both pounds and acres treated between 2016 and 2017.[5]

Any investigation about pesticides is complicated. In additional to traditional pesticides like sulfur, 1,3-dichloropropene, glyphosate, and metam-potassium, growers today consider and use items like biopesticides[6], petroleum and mineral oils, and highly refined petroleum-based oils, some for newer uses by organic growers.[7] For Monterey County, the top five pesticides used by pounds in 2017 are listed in Table 1.

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[2] From Board of Supervisors. *About Monterey.* Monterey County Legislative Program. Page 4

[3] CA Dept of Pesticide Regulation. 2017 Pesticide Use Report Highlights https://www.cdpr.ca.gov/docs/pur/pur17rep/pur_highlights_2017.pdf

[4] Ibid.

[5] See CA Dept of Pesticide Regulation. Pesticide Use Reporting -2017 Summary Data Text files for all 2017 Annual Report tables and figures files for Monterey County (2016, 2017) ftp://transfer.cdpr.ca.gov/pub/outgoing/pur/data/

[6] Biopesticides is an EPA term for certain types of natural products used to control pests, plant diseases and weeds. (Note: not all-natural products are biopesticides). Marrone, P. (2008) https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/OHB/OPIPP/CDPH%20Document%20Library/PestConf- Marrone1.pdf

[7] CA Dept of Pesticide Regulation. 2017 Pesticide Use Report Highlights https://www.cdpr.ca.gov/docs/pur/pur17rep/pur_highlights_2017.pdf

Table 1 - Monterey County, 2017: Top Five Pesticides by Pounds & Sites of Use[8]

Chemical	Commodity	Pounds	# Apps	Acres
CHLOROPICRIN (1)	STRAWBERRY	2247331	524	8748
CHLOROPICRIN	RASPBERRY	44749	11	162
CHLOROPICRIN	N-OUTDR FLOWER	4966	4	17
CHLOROPICRIN	BLACKBERRY	4022	1	14
SULFUR (2)	GRAPE, WINE	607273	4633	135964
SULFUR	STRAWBERRY	206040	2066	49360
SULFUR	PEAS	23665	393	4503
SULFUR	BRUSSELS SPROUT	18791	258	3091
SULFUR	CARROT	18749	153	2005
1,3-DICHLOROPROPENE (3)	STRAWBERRY	498974	365	7252
1,3-DICHLOROPROPENE	GRAPE, WINE	198963	15	628
1,3-DICHLOROPROPENE	BRUSSELS SPROUT	63514	49	981
1,3-DICHLOROPROPENE	CARROT	16218	10	234
1,3-DICHLOROPROPENE	BROCCOLI	15499	3	87
PETROLEUM DISTILLATES, REFINED (4)	GRAPE, WINE	739995	3467	126233
PETROLEUM DISTILLATES, REFINED	HEMP/CANNABIS	254	29	23
PETROLEUM DISTILLATES, REFINED	APPLE	246	2	17
PETROLEUM DISTILLATES, REFINED	LANDSCAPE MAINTENANCE	102	0	0
PETROLEUM DISTILLATES, REFINED	N-GRNHS FLOWER	7	1	0.689
POTASSIUM PHOSPHITE (5)	LETTUCE, LEAF	168115	4060	51039
POTASSIUM PHOSPHITE	LETTUCE, HEAD	130358	3234	40131
POTASSIUM PHOSPHITE	SPINACH	88106	2727	32603
POTASSIUM PHOSPHITE	PEAS	19094	505	5859
POTASSIUM PHOSPHITE	STRAWBERRY	8930	48	1862

[8] Source: CA Dept Pesticide Reg. 2017 Summary Data by County
https://www.cdpr.ca.gov/docs/pur/pur17rep/top_5_ais_sites_lbs_2017.htm

It is important to note that the laws and policies governing pesticide use are promulgated by Federal and State agencies. Monterey County is tasked with enforcing those laws and policies, and the Monterey County Agricultural Commissioner's Office (MCACO) is its enforcement arm.

MCACO has Federal, State, and Monterey County program funding. Its County budget is approximately $11 million per year[9] and about $3 million of that amount is used to oversee pesticide use.[10] This oversight includes ensuring local compliance with Federal and State mandates for inspections, disclosures of pesticide use, pesticide application monitoring, worker safety, and public safety programs. As part of this effort, MCACO monitors, collects, and reports all data on commercial pesticide use for Monterey County.

This work makes MCACO a key source for unbiased, scientifically based data about pesticide use in Monterey County. In addition to County-based MCACO-generated data, the MCACO website provides links to federal, state, academic, and research materials concerning most aspects of pesticide use in agriculture. This combination of local data and linked resources are focused on, and primarily used by, the agriculture industry.

These data are not currently distributed or made available in a consumer-friendly form to the local community. Today, Monterey County residents and consumers can register complaints about any pesticide-related incident[11] on the MCACO website, but they would be challenged to find useful, consumer-focused tips about the pesticides used on their local produce on that same website.

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[9] County of Monterey Recommended Budget FY2019-2020. pg. 45: https://www.co.monterey.ca.us/home/showdocument?id=77798

[10] Office of the Agricultural Commissioner. (2020). Pesticide Use & Enforcement, accessed: https://www.co.monterey.ca.us/government/departments-a-h/agricultural-commissioner/agricultural-resource-programs/pesticide-use-enforcement#ag

[11] See MCACO website https://www.co.monterey.ca.us/government/departments-a-h/agricultural-commissioner/agricultural-resource-programs/pesticide-use-enforcement/file-a-complaint#ag

METHODOLOGY

The Civil Grand Jury investigated the nature and scope of public information available using the following methodology:

- By reviewing relevant Federal and State official websites with a focus on pesticide use in Monterey County, and then cross referencing these data with information available on the MCACO website.
- By examining commercial, third-party NGO/agriculture action groups, and other stakeholder organization websites relating to pesticide use in Monterey County.
- By identifying and reviewing relevant information from commercial and scientific journals published by academic and research organizations.
- By interviews with MCACO.

DISCUSSION

The Civil Grand Jury's investigation focused on MCACO's ability to provide relevant information that promotes general public awareness regarding pesticides and their use in the County.

As noted above, MCACO's current pesticide efforts are largely concentrated on commercial farming and crops. MCACO's outreach is essential for local agriculture stakeholders and has a heavy focus on policies that affect how crops are raised, while also ensuring adequate workplace safety protocols are known and followed for all aspects of pesticide use.

However, in order to make informed choices for their families, Monterey County consumers also must have access to accurate and useful information about the pesticides used in our crops. Finally, concerned NGO's or even third-party agriculture action groups could better serve the public if they had access to consumer-focused factual and unbiased pesticide information when they seek to promote initiatives with the public.

On this point, the Civil Grand Jury concluded that there is a prevalent and genuine need for residents of Monterey County and other interest groups to have access to unbiased, scientifically reviewed information about pesticides.

The Civil Grand Jury acknowledged that MCACO already conducts certain initiatives or action related to educating the general public. However, it also noted that the MCACO website does not leverage its resources or its MCACO data in webpages that present a straightforward platform for the general public. Expanding the MCACO website to be more consumer friendly in presenting MCACO pesticide information would be a major step to meet this need.

The Civil Grand Jury also concluded that another type of information gap exists. The MCACO website has professional links and pesticide resources (alluded to above) for agricultural professionals. However, it lacks an equivalent breadth of connections to government, industry, or scholarly pesticide resources that are tailored toward the public's need for pesticide-relevant information.

To meet this need, equivalent pesticide resources that target general public pesticide topics could be included on a MCACO consumer-focused webpage. These resources do exist. The Civil Grand Jury investigation found sources such as: the National Center for Biotechnology Information (*Pesticide Residues in Food: Attitudes, Beliefs, and Misconceptions among Conventional and Organic Consumers)*[12], the U.S. Environmental Protection Agency (*Is food grown using pesticides safe to eat?)*[13], and even California's own Department of Pesticide Regulation (*Pesticides and Food: How We Test for Safety)*[14] as examples of consumer-focused pesticide related links that could benefit the County's residents.

The Civil Grand Jury noted and agreed with an article posted by the U.S. National Library of Medicine that stated: "…the ability of consumers to obtain and understand

[12] See NCBI https://www.ncbi.nlm.nih.gov/pubmed/29154718
[13] See EPA https://www.epa.gov/safepestcontrol/food-and-pesticides
[14] See CDPR https://www.cdpr.ca.gov/docs/dept/factshts/residu2.pdf

state-of-the-science information about how pesticides are regulated and how dietary exposure limits are set can be limited by the complicated nature of the regulations coupled with an abundance of sources seeking to cast doubt on the reliability of those regulations."[15] This is why a MCACO resident-focused website or portal is needed.

The combination of MCACO-generated local pesticide data, plus appropriate external consumer-focused pesticide-related links that are centralized on an MCACO portal for the general public would be a new level of outreach. Based on mission, location, and professional knowledge, MCACO is the best local authority for residents' questions on pesticides. In sum, the Civil Grand Jury determined that MCACO can play a central role in providing an online and an in-person forum for the distribution of useful pesticide-related information needed by the public today.

This is not only important for the routine considerations of daily life, it is also important in times when accidents or crises develop. MCACO is part of the Monterey County Hazardous Materials Incident Response Organization. The County's Hazardous Materials Incident Response Plan calls for MCACO to inform and assist responders if "Pesticide Drift Exposure" incidents were to occur as well as agricultural chemical wholesalers and applicators were to experience spills or other incidents.[16] The MCACO could use the proposed public-focused website, and other MCACO social media tools to notify, guide, and inform the public of these events in a real-time or near-real time manner. This could promote public safety and enhance public confidence in MCACO's responsible oversight of pesticides in our County.

However, the Civil Grand Jury realizes that many Monterey County residents do not have the resources, or the opportunity to use the internet and social media to research this knowledge. U.S. Census data suggest that 80.8 percent of Monterey County households have broadband access at home, but that also means more than 24,000

[15] See Reeves,McGuire, Stokes, & Vicini (2019) doi: 10.1093/advances/nmy061

[16] Monterey County (MC). (2016). MC Operational Area Hazardous Materials Incident Response MC Hazardous Materials Incident Response Plan. http://www.mcftoa.org/wp-content/uploads/2011/05/Monterey-County-Haz-Mat-Area-Plan-Final-January-2016.pdf

households – or more than 79,200 people, are not connected.[17] County news reports also highlight the challenges faced by many County residents, who are "not connected."[18] This segment of our community, possibly 18 percent of the County, also needs accurate, reliable and unbiased information on pesticides.

In this regard, the Civil Grand Jury noted that MCACO routinely conducts farm labor-contractor workshops, K-12 outreach activities, staff presentations to schools, and even engages in partnerships with local 4H clubs. These are ideal venues to provide or disseminate hard copy materials that would mirror the consumer-focused pesticide portal envisioned above. These initiatives would be a catalyst for informing that un-plugged portion of our community. Such work could be augmented by mailings or material available at MCACO offices

In addition, the Civil Grand Jury noted that the Monterey County Board of Supervisors' policy P-130 (page 1of 4) cites US Census data on Monterey County as being "…home to more than 25% of people who cannot communicate in English, with close to 100,000 people who speak only Spanish."[19] Other sources reference US Census ACS data (2014-2018) to suggest similar language demographics.[20] This led the Civil Grand Jury to conclude that MCACO outreach would be more effective to the community and have a more extensive reach in the County by having information that is bilingual, written in both English and Spanish.[21]

Finally, the Civil Grand Jury recognizes the Agricultural Commissioner and MCACO for the work done so far both to keep our produce safe and plentiful, and to improve the process of disseminating information about pesticides. The Civil Grand Jury noted how MCACO has used different media including the Monterey County website, Facebook, a

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[17] US Census, American Community Survey (ACS), 2014-2018: https://www.census.gov/quickfacts/fact/table/montereycountycalifornia/HSD310218

[18] See: The Great Divide (3/1/2018). Marielle Argueza. *Monterey County Weekly*: https://www.montereycountyweekly.com/news/cover/about-percent-of-monterey-county-doesn-t-have-high-speed/article_4d23b65a-1ce6-11e8-bcde-87000d561763.html

[19] Monterey Board of Supervisors, Legistar File Number 17-1262, January 9, 2018: https://www.co.monterey.ca.us/home/showdocument?id=69250

[20] See LiveStories.com: https://www.livestories.com/statistics/california/monterey-county-language

Quarterly Newsletter, the Monterey County Crop Report and certain other publications. Now is the time for the next level of MCACO outreach to the consumers.

FINDINGS

F1. There is a prevalent and genuine need for residents of Monterey County, and other interest groups, to have access to unbiased, scientifically reviewed information about pesticides.

F2. The scope of MCACO's mission, resources, and outreach capabilities mean that it can play a central role as a forum for fact-based and authoritative information to the public about pesticide-related facts and issues.

F3. MCACO currently uses social media such as Facebook, but has not availed itself of the ever-expanding range of other outreach opportunities, including other social media outlets. Also underutilized are printed bilingual (English/Spanish) materials that could reach a wider range of the County's different communities.

RECOMMENDATIONS

When the 2019/20 Civil Grand Jury began our investigations, COVID-19 had not yet become a public health crisis. However, as we conclude our reports, we are tasked to specify a time frame within which to address our recommendations. We have done so, attempting to allow some extra time given the current situation. We ask the County Supervisors, Departments, Cities, and Special Districts responsible for enacting our recommendations to do their best to accomplish these goals as expeditiously as possible, given the effect of the current pandemic crisis on staffing availability.

R1. Within budget limitations and personnel constraints, MCACO should create a simple, accessible forum on MCACO website that is general-public focused, and that publicizes relevant pesticide information directly to the Monterey County community. This website forum should be bilingual in content (English/Spanish).

This recommendation should be completed within one year of the publication of this report.

R2. MCACO should expand its use of social media to a more varied range of portals, outlets, media and platforms. These outlets should link to the proposed general public pesticide forum, when active, and also publicize MCACO's rich resources of pesticide information throughout. This expanded outreach should include printed materials and bilingual (English/Spanish) content. This should be completed within one year of the publication of this report.

R3. MCACO should prepare its current social media and all expanded outreach channels to support contingency planning and public notifications for any incidents under MCACO's purview that might develop or create public interest or concern. This should be operational within six months of the publication of this report.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Civil Grand Jury requests responses as follows:

From the following elected county officials within 90 days:

- Monterey County Board of Supervisors
  Findings: F1 – F3
  Recommendations: R1 – R3

INVITED RESPONSES

- Monterey County Agricultural Commissioner
  Findings: F1 – F3
  Recommendations: R1 – R3

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Civil Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

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MONTEREY PENINSULA AIRPORT DISTRICT
The Airport Master Plan – a Well-Conceived Flight Plan, but Indications of Financial Turbulence Ahead

SUMMARY

The Monterey Peninsula Airport District's 2015 Airport Master Plan presents three planning time horizons: short-term (1-5 years), intermediate-term (6-10 years), and long-term (11-20 years). The Plan recommends many capital projects during each of these three periods to improve the safety of airport operations as well as to enhance the convenience of commercial airline passengers. The greatest share of capital spending is forecast to occur during the intermediate term.

The 2019/20 Monterey County Civil Grand Jury (Civil Grand Jury) recognized that the intermediate term was about to commence and elected to investigate the Monterey Peninsula Airport District to review its historical five-year short-term results from airport operations as compared with figures used in the Airport Master Plan.

A major source of funding for capital projects is the FAA Airport Improvement Program (AIP) which provides entitlement funds to airports based, in part, on their annual passenger volume and pounds of landed cargo weight. Consequently, shortfalls in passenger volume have a significant effect on available AIP funding. A second source of funds for the projects comes from Passenger Facility Charges which would also be impacted by shortfalls in passenger volume.

The Civil Grand Jury found that even without the covid-19 crisis, the forecasted annual volumes used in the 2015 Airport Master Plan's Capital Improvement Plan were overly optimistic for the first five years, with actual volumes coming up short by an average 8% per year.

Additionally, the Civil Grand Jury decided to investigate the viability of the proposed funding plans for the intermediate term capital investments which include the planning, design, and construction of a new commercial airline passenger terminal and its associated infrastructure. Even assuming the forecasted volumes for the intermediate

term project funding are accurate, the unfunded portion ("Local Share") for those projects was forecast to amount to $62 million or more.

The Civil Grand Jury found that minimal effort had been spent planning to source these additional funds until September 17, 2019 when the Board contracted with a financial advisory firm to begin that planning.

GLOSSARY

AIP – The Airport Improvement Program of the Federal Aviation Administration.
AMP – The 2015 Airport Master Plan for the Monterey Regional Airport.
CIP – Capital Improvement Plan (section 7 of AMP)
Enplanement – The act of a passenger boarding a commercial aircraft.
FAA – Federal Aviation Administration.
Local Share – the amount of the project cost as identified on Exhibit 7A of the AMP which is not funded by FAA AIP nor by PFC, but which must be sourced through local resources.
Civil Grand Jury – The Monterey County Civil Grand Jury**.**
MPAD – Monterey Peninsula Airport District**.**
MRY – Airport code for Monterey Regional Airport.
Pax – Passengers
PFC – The Passenger Facility Charge fee that is charged to each departing paid commercial passenger (currently $4.50).
Special District – a form of local government created by a community to meet a specific need.

BACKGROUND

Originally a municipal airport, the Monterey Regional Airport was acquired in 1941 by a newly formed Special District created by the State of California's enabling legislation. The Airport is not governed by Monterey County government or by the government of any city within the County, but rather it is a separate entity governed by an elected five-member Board of Directors. The Special District has the authority to levy and collect tax as well as to issue bonds and incur debts. The District's boundaries encompass the

cities of Carmel, Del Rey Oaks, Monterey, Pacific Grove, Sand City, and portions of Seaside, Pebble Beach, Carmel Highlands, the west end of Carmel Valley, and the Monterey-Salinas Highway to Laureles Grade. The Airport operates as a small city with its own police and fire protection units, among other functions.

Airport operations include commercial flights as well as general aviation and military flights. Each passenger departure is known as an **enplanement**. In calendar year 2018 the Airport enplaned approximately 200,000 passengers and was ranked 189 in size among airports in the United States. By contrast, San Francisco International Airport enplaned 27.8 million, Norman Y Mineta San Jose International Airport enplaned 7.0 million, and Metropolitan Oakland International Airport enplaned 6.7 million in 2018.

Monterey Regional Airport is in competition with San Francisco, San Jose, and Oakland airports for a share of the commercial airline passenger business from Monterey County.

APPROACH

The Civil Grand Jury gathered information from many sources in researching the Monterey Airport Special District. Among the sources of information are:

- Airport management personnel
- Monterey Peninsula Airport District Board of Directors members
- The 2015 Monterey Regional Airport Master Plan
- Audited financial statements ("Annual Financial and Compliance Report") of the Monterey Peninsula Airport District for fiscal years 2017/18 and 2018/19
- Long-term Capital Budgets of the Monterey Regional Airport
- FAA Nationwide Enplanement Data
- Enabling Legislation for Monterey Peninsula Airport District Act of 1941
- Board of Directors meeting notes of the Monterey Peninsula Airport District
- FAA Federal Airline Regulations Rule 77
- FAA Airport Improvement Program Fund Rules
- FAA Passenger Facility Charge Rules (Order 5500.1)

DISCUSSION

The Airport Master Plan

In 2015, the Monterey Peninsula Airport District (MPAD) published an updated Airport Master Plan (AMP) that outlined the short, intermediate, and long-term development goals for the Monterey Regional Airport through the year 2035. The Plan, prepared by the consulting firm Coffman Associates, Inc., was developed over 18 months with input from professional planners, MPAD elected leaders, airport professional staff, 25 community leaders, and the general public. The report studied all aspects of airport operations including commercial aviation, general aviation and military aviation. The report analyzed the current airport inventory, made demand and capacity forecasts, analyzed facility requirements, and presented airport development alternatives; it then recommended certain development alternatives and concluded with a Capital Improvement Plan (CIP) that outlined projected costs and possible funding sources for the recommended airport improvements (see Appendix A).

The total cost of the CIP projects over the 20-year span, 2015-2035, amounts to $236,084,000. Much of this cost can be funded by federal grants and passenger facility charges (discussed below) but there remains some $62 million (the “local share”) that will need alternative sources of funds. This is because certain projects in the plan are enhancements to revenue-producing operations (parking, restaurants, car rental, etc.) which are ineligible for federal grants. These projects include relocating the passenger terminal building, with the construction occurring in the Intermediate Term about to commence.

The Terminal Building Relocation

There are two main reasons the AMP recommends relocating the terminal.[1] Monterey Regional Airport has been operating under a waiver from the FAA since the 1970s because the taxiway and apron are too close to the main runway under standard taxiway-to-runway separation requirements. The taxiway and apron cannot currently be

[1] The Civil Grand Jury was unable to determine whether the planners considered relocating the entire airport to the Marina Airport facility as one of the options.

moved away from the runway because the terminal building is in the way. Therefore, the plan is to rebuild the terminal building further to the southeast of its existing location, thereby improving the safety of the Airport's commercial operations.

In addition, this move provides the opportunity to address certain design and operational shortcomings of the current terminal building, including the addition of passenger jetways so that passengers do not need to brave the elements in boarding and deplaning. Further, with the terminal relocated the Airport would be in position to handle larger commercial aircraft.

Funding Sources

The CIP section of the AMP discusses, in general terms, the possible funding sources for financing the projects. The plan anticipates a total of $158,121,968 in FAA grant funds, and $15,816,169 in Passenger Facility Charges (PFCs), leaving some $62 million to be sourced locally. This assumes that 50% of the cost of the Terminal Building construction would be eligible for federal grant money. Should that assumption prove to be too optimistic, the amount needed to be sourced locally would increase. In addition, because the amount of federal grants available is based on the Airport's passenger volume (enplanements), should the assumptions used in the AMP for enplanements prove too optimistic there would be a resulting shortfall in available federal grants and an increase in the amount needed to be sourced locally.

The options for financing the local share are some combination of "airport revenues, issuance of a variety of bond types, and leasehold financing."[2] The issuance of bonds requires periodic payments of interest and principal, with such payments potentially funded by additional taxes on District taxpayers.

[2] Monterey Regional Airport *Capital Improvement Plan* (Draft Final – June 2015) pg. 7-9

Enplanements

The FAA AIP provides "entitlement funds to airports based, in part, on their annual enplaned passengers."[3] Because the MPAD AMP anticipates such funding as one of the sources for the CIP, the Civil Grand Jury looked at the actual enplanements for the calendar years 2015-2019 to compare with those years' respective projected enplanements in the CIP.

Initially, the Civil Grand Jury found two sources for the actual annual enplanement figures: the MPAD's Annual Audited Financial Statements, and the FAA website.[4] The *Management Discussion* section of the annual MPAD audited financial statements shows total monthly enplanements for the current *fiscal* year and previous 5 *fiscal* years (Table 1).

[3] Monterey Regional Airport *Capital Improvement Plan* (Draft Final – June 2015) pg. 7-2

[4] https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/media/cy18-commercial-service-enplanements.pdf

MONTEREY PENINSULA AIRPORT DISTRICT

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED-CONTINUED)
FOR THE FISCAL YEARS END JUNE 30, 2019 AND 2018

Financial Highlights (Continued)

- The District met its obligations and reduced its taxable pension obligation bonds principal to $1,068,000 (FY18 $1,394,000) and California Energy Commission Loan principal to $2,802,761 (FY18 $2,931,320).

- In the airport industry, one standard measure of a commercial airport's size is the number of annual enplanements, i.e., passengers flying from the airport on commercial airlines. Enplaned passengers during the six-fiscal year period, FY14 through FY19, are presented below in Table I.

Table I

TOTAL ENPLANEMENTS: FISCAL YEARS 2014 - 2019											
FY 2014		FY 2015		FY 2016		FY 2017		FY 2018		FY 2019	
7/13	18,756	7/14	15,980	7/15	16,239	7/16	17,679	7/17	18,068	7/18	16,262
8/13	17,680	8/14	16,622	8/15	16,248	8/16	17,589	8/17	16,450	8/18	15,537
9/13	17,798	9/14	15,280	9/15	14,682	9/16	17,304	9/17	16,374	9/18	14,630
10/13	18,307	10/14	17,102	10/15	15,507	10/16	17,856	10/17	17,151	10/18	17,933
11/13	16,235	11/14	15,168	11/15	15,762	11/16	16,444	11/17	15,576	11/18	17,071
12/13	16,362	12/14	13,882	12/15	15,348	12/16	16,275	12/17	15,740	12/18	15,477
1/14	14,157	1/15	12,728	1/16	13,046	1/17	14,802	1/18	13,302	1/19	14,284
2/14	14,191	2/15	13,010	2/16	13,562	2/17	15,102	2/18	13,758	2/19	15,242
3/14	16,886	3/15	15,823	3/16	16,040	3/17	18,986	3/18	15,758	3/19	17,533
4/14	16,278	4/15	15,926	4/16	15,844	4/17	17,677	4/18	16,400	4/19	19,159
5/14	17,932	5/15	16,336	5/16	17,813	5/17	18,832	5/18	15,622	5/19	20,760
6/14	16,302	6/15	15,110	6/16	17,872	6/17	18,359	6/18	15,857	6/19	21,774
	200,884		182,967		187,963		206,905		190,056		205,662

- FY19 enplanements increased 8.2% compared to FY18 to 205,662 primarily due to increases in scheduled flights. The increase resulted from an airline adding two daily flights to Denver International Airport and another adding one daily flight Dallas Fort Worth International Airport.

- FY18 enplanements decreased 8.1% compared to FY17 to 190,056 primarily due to decreases in scheduled flights. The decrease resulted from an airline's cancellation of its daily flights to Los Angeles International Airport.

Figure 1 Enplanements per MPAD financial statements[5]

[5] Monterey Peninsula Airport District *Annual Financial and Compliance Report for the Years Ended June 30, 2019 and 2018* pg.7.

The FAA table shows enplanements by *calendar* year total:

Source: ACAIS
FAA Airports

Commerical Service Airport (Rank Order)
based on Calendar Year 2018

11/8/2019

Rank	RO	ST	Locid	City	Airport Name	S/L	Hub	CY 18 Enplanements	CY 17 Enplanements	% Change
187	EA	VA	PHF	Newport News	Newport News/Williamsburg International	P	N	195,573	197,994	-1.22%
188	NM	CO	DRO	Durango	Durango-La Plata County	P	N	189,225	186,917	1.23%
189	WP	CA	MRY	Monterey	Monterey Regional	P	N	186,806	197,099	-5.22%
190	GL	MI	LAN	Clinton (Township of)	Capital Region International	P	N	184,018	196,617	-6.41%

Figure 2 Example FAA table of Enplanements 2017 & 2018

Because the FAA data is reported in *calendar* year totals only, the Civil Grand Jury re-aligned the monthly amounts from the MPAD financials statement table to calculate calendar year totals.

Calendar Year	Enplanements per MPAD financial statements	Enplanements per FAA	Difference	Percentage Difference
2013	206,186	205,069	(1,117)	-0.5%
2014	189,780	186,935	(2,845)	-1.5%
2015	182,719	180,605	(2,114)	-1.2%
2016	197,324	192,136	(5,188)	-2.7%
2017	203,117	197,099	(6,018)	-3.1%
2018	190,304	186,806	(3,498)	-1.9%

Figure 3 Comparing FAA Annual Enplanements to MPAD financial statements

Note that in each year the amounts reported in the financial statements were approximately one to three percent higher than the actual FAA counts.

The Civil Grand Jury then requested documents from the MPAD relating to several areas of investigation, including the enplanements for fiscal years 2019 and 2018. The tables received provided a more granular look at the enplanement totals, showing amounts for each airline and separating Revenue Passenger Enplanements from Non-Revenue Passenger Enplanements. (See Appendix B)

Upon comparing the enplanements received from our initial document request to the enplanements reported in the financial statements, it was noted that in the 2017/18

financial statements there is an inconsistency in which types of enplanements are included in the table; in some months (highlighted in green) the Revenue Passenger count was used, and in other months (highlighted in blue) the *total* passenger count (including non-revenue passengers) was used. This inconsistency seems to have been corrected in the 2018/19 financial statement table which consistently used *total* passengers (i.e. both Revenue and Non-Revenue passengers). However, that choice remains inconsistent with the amounts used in the FAA reporting (and therefore in calculating potential AIP funds available).

Month/Year	Rev Pax per Doc Request	Non Rev per Doc Request	Total Enplanements per Doc Request	Total Enplanements per audited financials
Jul - 2017	17,868	560	18,428	18,068
Aug - 2017	16,100	350	16,450	16,450
Sep - 2017	16,038	336	16,374	16,374
Oct - 2017	16,811	340	17,151	17,151
Nov - 2017	15,576	339	15,915	15,576
Dec - 2017	15,353	387	15,740	15,740
Jan - 2018	13,302	370	13,672	13,302
Feb - 2018	13,465	293	13,758	13,758
Mar - 2018	15,448	310	15,758	15,758
Apr - 2018	15,891	456	16,347	16,400
May - 2018	15,622	493	16,115	15,622
Jun - 2018	15,857	533	16,390	15,857
Jul - 2018	16,391	531	16,922	16,922
Aug - 2018	15,537	391	15,928	15,928
Sep - 2018	14,630	324	14,954	14,954
Oct - 2018	17,851	442	18,293	18,293
Nov - 2018	17,071	479	17,550	17,550
Dec - 2018	15,477	483	15,960	15,960
Jan - 2019	14,254	435	14,689	14,689
Feb - 2019	13,299	445	13,744	13,744
Mar - 2019	17,537	391	17,928	17,928
Apr - 2019	19,159	481	19,640	19,640
May - 2019	20,760	469	21,229	21,229
Jun - 2019	21,774	551	22,325	22,325

Figure 4 Compare types of enplanements used in reporting for Management Discussion section of the audited financial statements

With those enplanement count discrepancies understood, the Civil Grand Jury turned its attention to the comparison between the enplanements *projected* in the Airport Master Plan of 2015 with the *actual* results through 2019, and the resulting impact on potential

AIP funding. The formula[6] for calculating the funding available under the AIP is as follows: $7.80 for each of the first 50,000 enplanements; $5.20 for each of the next 50,000; $2.60 for each of the next 400,000 (and other amounts for higher levels not relevant to Monterey Regional Airport). The funding for any current year is based on the enplanements from 2 years prior. In years when more than $3.2 billion is available the grant amounts are doubled.[7] This doubling appears to be assumed in the AMP.
As the table in Figure 5 shows, the actual relevant enplanements for the last 5 years are less than the projections assumed in the Master Plan, resulting in a calculated shortfall of $100,000 to nearly $200,000 each year in available AIP grant funding and in PFCs.

Calendar Year	Projected Enplanements per 2015 MPAD Master Plan	Actual Enplanements per FAA	Difference	Calculated shortfall in AIP funding	Calculated shortfall in PFCs (@$4.50)
2014	204,934	186,935	(17,999)	$ (93,595)	$ (80,996)
2015	209,308	180,605	(28,703)	(149,256)	(129,164)
2016	213,776	192,136	(21,640)	(112,528)	(97,380)
2017	218,339	197,099	(21,240)	(110,448)	(95,580)
2018	223,000	186,806	(36,194)	(188,209)	(162,873)

Figure 5 Potential impact on AIP funding, Actual vs Projected Enplanements

Because the federal grant money anticipated by the AMP is based on the number of enplanements, fewer dollars will be available from federal grants. PFC's are also directly impacted by the shortfall in enplanements. As a result, the amount needed to be covered by the local share is greater than previously anticipated. The Civil Grand Jury appreciates that the original forecast was based on the best information available at the time. However, with the five-year trend showing an average 8% per year shortfall in actual enplanement figures, not only is the 2015-2019 local share burden increased, but this also calls into question the accuracy of the estimates of the grant money and PFCs available in each of the succeeding years covered by the AMP.

[6] Source: FAA AIP Handbook pg 4-2 https://www.faa.gov/airports/aip/aip_handbook/media/AIP-Handbook-Order-5100-38D-Chg1.pdf

[7] Source: Monterey Regional Airport *Capital Improvement Plan* (Draft Final – June 2015) pg. 7-4

FINDINGS

F1. Enplanements for the years 2014-2018 have consistently fallen short of the estimates used in the 2015 AMP. This has resulted in a calculated shortfall of $100,000 to nearly $200,000 each year in available AIP grant funding, with similar shortfalls in available PFCs.

F2. Even without the funding shortfall noted in F1, sources of funding for the $62 million or more in local share costs have not been identified. As stated in the AMP, these funds are primarily for the construction of the new passenger terminal building. This was concerning to the Civil Grand Jury because the Board has not effectively communicated to the taxpayers that this large funding gap looms, and the taxpayers within the District are likely not aware that the solution to the unfunded portion may include additional taxes.

F3. The number of enplanements has been inconsistently reported in the District's financial statement package. This is a critical financial metric used to forecast available AIP grant funding available and should be as clear and accurate as possible for the public, especially for those who live within the boundaries of the MPAD.

RECOMMENDATIONS

When the 2019/20 Civil Grand Jury began our investigations, COVID-19 had not yet become a public health crisis. However, as we conclude our reports, we are tasked to specify a time frame within which to address our recommendations. We have done so, attempting to allow some extra time given the current situation. We ask the County Supervisors, Departments, Cities, and Special Districts responsible for enacting our recommendations to do their best to accomplish these goals as expeditiously as possible, given the effect of the current pandemic crisis on staffing availability.

R1. Within the scope of the contract recently executed for advice on funding sources for the "Local Share" of the project, a complete re-forecast of enplanements (and

resulting PFC and FAA grant money) should be done, so that the total remaining unfunded local share amount is as accurate as possible. (F1 & F2).

R2. Communicate immediately with the residents of the District about the potential implications of the shortfall in grant funding available for the Terminal Building Project. (F2)

R3. As soon as they become available, share the results of the contracted inquiry into available funding sources for the local share amounts with the taxpayers. (F2)

R4. Revise the table (or alternatively add a separate table) in the Management Discussion section of future annual financial statements to include strictly *revenue-passenger* enplanements since that (rather than *total* enplanements) is the metric used by the FAA in determining available AIP funding and PFCs. (F3)

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Civil Grand Jury requests responses as follows:

From the following governing bodies within 90 days:

- The Board of Directors of the Monterey Peninsula Airport District, F1, F2, F3, R1, R2, R3, R4

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Civil Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

APPENDICES

A – 2015 Airport Master Plan, Capital Improvement Program

B – MRY AIRPORT Enplanement/Deplanement provided by MPAD

Appendix A

	PROJECT DESCRIPTION	Project Cost	FAA AIP Eligible[1]	Local Share AIP Match	Local Share Remaining
SHORT TERM PROGRAM (0-5 YEARS)					
2016					
1	NEPA/CEQA Environmental Documentation (Terminal Relocation, New ARFF Building, North GA Development)	$ 2,000,000	$ 1,813,200	$ 186,800	$-
2016	**TOTALS**	**$ 2,000,000**	**$ 1,813,200**	**$ 186,800**	**$-**
2017					
2	Hold Line/RSA Mitigation on Twys F-K	$ 3,900,000	$ 3,535,740	$ 364,260	$-
2017	**TOTALS**	**$ 3,900,000**	**$ 3,535,740**	**$ 364,260**	$-
2018					
3	Airport Perimeter Fence	$ 850,000	$ 770,610	$ 79,390	$-
2018	**TOTALS**	**$ 850,000**	**$ 770,610**	**$ 79,390**	**$-**
2019					
4	North Side GA - Design	$ 1,675,100	$ 1,518,646	$ 156,454	$-
2019	**TOTALS**	**$ 1,675,100**	**$ 1,518,646**	**$ 156,454**	$-
2020					
5	Terminal Complex - Design (Aprons & Taxiways)	$ 852,000	$ 772,423	$ 79,577	$-
6	North Side GA - Construction (Phase 1-Pavement/Site Prep)[2]	$ 17,871,000	$ 16,201,849	$ 1,669,151	$-
7	Runway 10L-28R Overlay and Improvements (PAPI, Twy K, L)	$ 2,100,000	$ 1,903,860	$ 196,140	$-
8	ARFF Building - Design	$ 960,000	$ 870,336	$ 89,664	$-
2020	**TOTALS**	**$ 21,783,000**	**$ 19,748,468**	**$ 2,034,532**	$-
TOTAL SHORT TERM PROGRAM		**$ 30,208,100**	**$ 27,386,663**	**$ 2,821,437**	$-
INTERMEDIATE TERM PROJECTS (Years 6-10)					
9	Terminal Complex - Design (Parking Structure)	$ 1,296,000	$ -	$ -	$ 1,296,000
10	Terminal Complex - Construction (Parking Structure)	$ 13,824,000	$ -	$ -	$ 13,824,000
11	ARFF Building - Construction	$ 10,240,000	$ 9,283,584	$ 956,416	$-
12	Terminal Complex - Construction (Aprons & Taxiways)	$ 9,088,000	$ 8,239,181	$ 848,819	$-
13	Terminal Complex - Design (Terminal Building)	$ 6,000,000	$ 3,000,000	$ 280,200	$ 2,719,800
14	Terminal Complex - Construction (Terminal Building)[3]	$ 64,000,000	$ 32,000,000	$ 2,988,800	$ 29,011,200
15	Terminal Complex - Design (Roads & Surface Parking)	$ 2,647,000	$ 1,222,000	$ 114,135	$ 1,310,865
16	Terminal Complex - Construction (Roads & Surface Parking)	$ 28,231,000	$ 13,030,000	$ 1,217,002	$ 13,983,998
17	Demolish Old Terminal Building	$ 1,000,000	$ 906,600	$ 93,400	$-
18	Taxiway A Shift to 327.5' - Env. Design, Construction - Includes Taxiway "Island" Improvements	$ 35,000,000	$ 31,731,000	$ 3,269,000	$-
19	Taxiway E Relocation - Env, Design, Construction	$ 3,100,000	$ 2,810,460	$ 289,540	$-
TOTAL INTERMEDIATE TERM PROGRAM		**$ 174,426,000**	**$ 102,222,825**	**$ 10,057,312**	**$ 62,145,863**
LONG TERM PROJECTS (Years 11-20)					
20	North Side Access Road - Env., Design, Construction	$ 10,000,000	$ 9,066,000	$ 934,000	$-
21	North Side GA - Construction (Phase 2-Pavement)[2]	$ 8,376,900	$ 7,594,498	$ 782,402	$-
22	Maintenance Building	$ 1,200,000	$ 1,087,920	$ 112,080	$-
23	RPZ Land Acquisition (20 Acres)/Easement (10 Acres)	$ 10,000,000	$ 9,066,000	$ 934,000	$-
24	Extend Taxiway B to Rwy 28L Threshold	$ 1,873,000	$ 1,698,062	$ 174,938	$-
TOTAL LONG TERM PROGRAM		**$ 31,449,900**	**$ 28,512,479**	**$ 2,937,421**	$-
TOTAL PROGRAM COSTS		**$ 236,084,000**	**$ 158,121,968**	**$ 15,816,169**	**$ 62,145,863**

[1] California Federal share is up to 90.66%.

[2] Does not include revenue facilities such as hangars or a fuel farm.

[3] Terminal construction estimated at 50% eligible. FAA Modernization and Reform Act of 2012 limits terminal construction discretionary funds to $20 million.

AIP: Airport Improvement Program

Source: Coffman Associates

Appendix B

APPENDIX B: MRY AIRPORT Enplanement / Deplanement

YEAR: 2017-2018	AMERICAN EAGLE			UNITED EXPRESS			ALASKA			ALLEGIANT			ELITE AIRWAYS (Unscheduled)			Monthly Total
	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	
July 2017																
Enplanement	5,986	295	6,281	7,503	234	7,737	2,989	31	3,020	1,330		1,330	60		60	18,428
Deplanement	6,431	252	6,683	6,883	205	7,088	3,044	35	3,079	1,372		1,372	60		60	18,282
	12,417	547	12,964	14,386	439	14,825	6,033	66	6,099	2,702	0	2,702	120	0	120	36,710
August 2017																
Enplanement	5,211	173	5,384	7,711	155	7,866	1,869	22	1,891	1,243		1,243	66		66	16,450
Deplanement	5,546	128	5,674	7,624	158	7,782	1,851	12	1,863	1,209		1,209	70		70	16,598
	10,757	301	11,058	15,335	313	15,648	3,720	34	3,754	2,452	0	2,452	136	0	136	33,048
September 2017																
Enplanement	4,911	165	5,076	8,487	154	8,641	1,633	17	1,650	952		952	55		55	16,374
Deplanement	4,983	177	5,160	7,971	162	8,133	1,591	16	1,607	1,002		1,002	55		55	15,957
	9,894	342	10,236	16,458	316	16,774	3,224	33	3,257	1,954	0	1,954	110	0	110	32,331
October 2017																
Enplanement	5,537	205	5,742	8,171	123	8,294	1,856	12	1,868	1,179		1,179	68		68	17,151
Deplanement	5,670	143	5,813	7,846	117	7,963	1,856	5	1,861	1,210		1,210	68		68	16,915
	11,207	348	11,555	16,017	240	16,257	3,712	17	3,729	2,389	0	2,389	136	0	136	34,066
November 2017																
Enplanement	5,156	179	5,335	7,406	150	7,556	1,841	10	1,851	1,173		1,173			0	15,915
Deplanement	5,313	162	5,475	7,158	123	7,281	1,814	11	1,825	1,109		1,109			0	15,690
	10,469	341	10,810	14,564	273	14,837	3,655	21	3,676	2,282	0	2,282	0	0	0	31,605
December 2017																
Enplanement	4,931	192	5,123	7,442	184	7,626	1,742	11	1,753	1,210		1,210	28		28	15,740
Deplanement	4,813	183	4,996	6,880	170	7,050	1,687	12	1,699	1,105		1,105	32		32	14,882
	9,744	375	10,119	14,322	354	14,676	3,429	23	3,452	2,315	0	2,315	60	0	60	30,622
January 2018																
Enplanement	4,511	153	4,664	6,244	191	6,435	1,481	26	1,507	996		996	70		70	13,672
Deplanement	4,925	147	5,072	6,640	144	6,784	1,580	27	1,607	1,135		1,135	70		70	14,668
	9,436	300	9,736	12,884	335	13,219	3,061	53	3,114	2,131	0	2,131	140	0	140	28,340

APPENDIX B: MRY AIRPORT Enplanement / Deplanement

YEAR: 2017-2018	AMERICAN EAGLE			UNITED EXPRESS			ALASKA			ALLEGIANT			ELITE AIRWAYS (Unscheduled)			Monthly Total
	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	
February 2018																
Enplanement	4,559	115	4,674	6,447	160	6,607	1,516	18	1,534	943		943	0		0	13,758
Deplanement	4,535	100	4,635	6,062	143	6,205	1,621	17	1,638	966		966	0		0	13,444
	9,094	215	9,309	12,509	303	12,812	3,137	35	3,172	1,909	0	1,909	0	0	0	27,202
March 2018																
Enplanement	5,609	99	5,708	6,735	194	6,929	1,815	17	1,832	1,165		1,165	124		124	15,758
Deplanement	5,487	106	5,593	6,609	155	6,764	1,910	15	1,925	1,113		1,113	66		66	15,461
	11,096	205	11,301	13,344	349	13,693	3,725	32	3,757	2,278	0	2,278	190	0	190	31,219
April 2018																
Enplanement	6,811	251	7,062	6,212	196	6,408	1,780	9	1,789	1,088		1,088			0	16,347
Deplanement	7,294	248	7,542	5,894	164	6,058	1,858	9	1,867	1,100		1,100	62		62	16,629
	14,105	499	14,604	12,106	360	12,466	3,638	18	3,656	2,188	0	2,188	62	0	62	32,976
May 2018																
Enplanement	6,091	242	6,333	6,716	237	6,953	1,781	14	1,795	964		964	70		70	16,115
Deplanement	6,331	249	6,580	6,312	185	6,497	1,729	13	1,742	975		975	70		70	15,864
	12,422	491	12,913	13,028	422	13,450	3,510	27	3,537	1,939	0	1,939	140	0	140	31,979
June 2018																
Enplanement	5,137	195	5,332	7,880	308	8,188	1,535	30	1,565	1,249		1,249	56		56	16,390
Deplanement	5,269	196	5,465	7,940	309	8,249	1,468	15	1,483	1,197		1,197	56		56	16,450
	10,406	391	10,797	15,820	617	16,437	3,003	45	3,048	2,446	0	2,446	112	0	112	32,840
YEARLY TOTALS	131,047	4,355	135,402	170,773	4,321	175,094	43,847	404	44,251	26,985	0	26,985	1,206	0	1,206	382,938

APPENDIX B: MRY AIRPORT Enplanement / Deplanement

YEAR: 2018-2019	AMERICAN EAGLE			UNITED EXPRESS			ALASKA			ALLEGIANT			ELITE AIRWAYS (Unscheduled)			Monthly Total
	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	
July 2018																
Enplanement	6,212	264	6,476	7,185	239	7,424	1,664	28	1,692	1,264		1,264	66		66	16,922
Deplanement	6,745	255	7,000	6,965	250	7,215	1,520	24	1,544	1,243		1,243	69		69	17,071
	12,957	519	13,476	14,150	489	14,639	3,184	52	3,236	2,507	0	2,507	135	0	135	33,993
August 2018																
Enplanement	4,914	164	5,078	7,613	195	7,808	1,789	32	1,821	1,152		1,152	69		69	15,928
Deplanement	5,434	175	5,609	7,835	186	8,021	1,685	25	1,710	1,161		1,161	69		69	16,570
	10,348	339	10,687	15,448	381	15,829	3,474	57	3,531	2,313	0	2,313	138	0	138	32,498
September 2018																
Enplanement	4,756	142	4,898	7,119	160	7,279	1,736	22	1,758	953		953	66		66	14,954
Deplanement	5,006	109	5,115	7,043	131	7,174	1,569	22	1,591	867		867	66		66	14,813
	9,762	251	10,013	14,162	291	14,453	3,305	44	3,349	1,820	0	1,820	132	0	132	29,767
October 2018																
Enplanement	5,257	171	5,428	9,671	253	9,924	1,819	18	1,837	1,104		1,104			0	18,293
Deplanement	5,393	164	5,557	9,564	246	9,810	1,688	21	1,709	1,111		1,111			0	18,187
	10,650	335	10,985	19,235	499	19,734	3,507	39	3,546	2,215	0	2,215	0	0	0	36,480
November 2018																
Enplanement	4,715	182	4,897	9,130	287	9,417	1,749	10	1,759	1,418		1,418	59		59	17,550
Deplanement	4,888	167	5,055	9,211	253	9,464	1,564	12	1,576	1,377		1,377	56		56	17,528
	9,603	349	9,952	18,341	540	18,881	3,313	22	3,335	2,795	0	2,795	115	0	115	35,078
December 2018																
Enplanement	4,786	181	4,967	8,040	280	8,320	1,694	22	1,716	928		928	29		29	15,960
Deplanement	4,705	178	4,883	7,541	254	7,795	1,389	19	1,408	929		929			0	15,015
	9,491	359	9,850	15,581	534	16,115	3,083	41	3,124	1,857	0	1,857	29	0	29	30,975
January 2019																
Enplanement	4,742	141	4,883	7,129	257	7,386	1,352	37	1,389	1,031		1,031			0	14,689
Deplanement	5,141	115	5,256	7,626	260	7,886	1,310	43	1,353	1,167		1,167	30		30	15,692
	9,883	256	10,139	14,755	517	15,272	2,662	80	2,742	2,198	0	2,198	30	0	30	30,381

APPENDIX B: MRY AIRPORT Enplanement / Deplanement

YEAR: 2018-2019	AMERICAN EAGLE			UNITED EXPRESS			ALASKA			ALLEGIANT			ELITE AIRWAYS (Unscheduled)			Monthly Total
	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	Rev Pax	Non-Rev	Total	
February 2019																
Enplanement	4,895	142	5,037	5,900	277	6,177	1,492	26	1,518	943		943	69		69	13,744
Deplanement	5,183	132	5,315	5,815	159	5,974	1,298	21	1,319	946		946	68		68	13,622
	10,078	274	10,352	11,715	436	12,151	2,790	47	2,837	1,889	0	1,889	137	0	137	27,366
March 2019																
Enplanement	5,788	160	5,948	8,847	206	9,053	1,726	25	1,751	1,112		1,112	64		64	17,928
Deplanement	5,882	141	6,023	8,641	206	8,847	1,578	29	1,607	1,063		1,063	63		63	17,603
	11,670	301	11,971	17,488	412	17,900	3,304	54	3,358	2,175	0	2,175	127	0	127	35,531
April 2019																
Enplanement	7,673	225	7,898	8,785	225	9,010	1,639	31	1,670	993		993	69		69	19,640
Deplanement	8,041	214	8,255	8,772	241	9,013	1,645	22	1,667	1,049		1,049	67		67	20,051
	15,714	439	16,153	17,557	466	18,023	3,284	53	3,337	2,042	0	2,042	136	0	136	39,691
May 2019																
Enplanement	8,392	208	8,600	9,426	251	9,677	1,762	10	1,772	1,123		1,123	57		57	21,229
Deplanement	8,904	228	9,132	9,392	239	9,631	1,625	12	1,637	1,063		1,063	57		57	21,520
	17,296	436	17,732	18,818	490	19,308	3,387	22	3,409	2,186	0	2,186	114	0	114	42,749
June 2019																
Enplanement	8,800	306	9,106	9,635	220	9,855	1,874	25	1,899	1,404		1,404	61		61	22,325
Deplanement	9,056	296	9,352	9,100	193	9,293	1,837	31	1,868	1,310		1,310	62		62	21,885
	17,856	602	18,458	18,735	413	19,148	3,711	56	3,767	2,714	0	2,714	123	0	123	44,210
YEARLY TOTALS	145,308	4,460	149,768	195,985	5,468	201,453	39,004	567	39,571	26,711	0	26,711	1,216	0	1,216	418,719

HUMAN RESOURCES
Building and Maintaining a Productive Workforce, the Lifeblood of an Organization

SUMMARY

The 2019/20 Monterey County Civil Grand Jury elected to investigate what progress had been made on implementation of the 2006/07 Civil Grand Jury's report recommendation to re-centralize some of the County's HR (Human Resources) functions in light of a decentralization effort that took place in the early 2000s. Focus was placed on the recruitment function because the 2006/07 Final Report recommended that the recruitment function be kept in each department.

The 2019/20 Civil Grand Jury found that the recruitment function was not operating at an optimal level in either the centralized or decentralized departments. The staff in these departments should be assessed for skill level and classification and rebalanced among the departments in order to provide optimal recruitment for the County. In addition, it may be necessary to add additional personnel positions. The Compensation Philosophy used by the County for classification and salary levels, last revised in 1989, must be updated in order to keep the County in a competitive position in the area of recruitment and retention, especially in the recent pre-covid 19 environment of low unemployment. In addition, critical employee positions should be identified, and hiring and referral bonuses made available. Lastly, a viable Learning and Organizational Development Division should be reestablished.

BACKGROUND

Today, Monterey County's human resource (Human Resources) function is partly decentralized. Human Resources staff in 14 departments report directly to the Human Resources Department Director. Human Resources staff in the remaining 10 departments report to their respective department heads, but function under a 1999

"Partnership Memorandum of Understanding" between the then-County Administrative Officer[1] and the departments, detailing duties and responsibilities incumbent on those departments under a new "decentralized" human resources operation. At that time, the Human Resources decentralization covered all county departments, but functionally, this Human Resources decentralization was not all-inclusive. Only selected Human Resources subject areas were transferred down to the individual department level. These included recruitment, skills testing, and position classification. Other Human Resources functions were retained by central Human Resources. During the mid-2000s a limited re-centralization occurred, which resulted in the present hybrid Human Resources landscape.

The distribution of the Human Resources function among the county's various departments is set forth below:

DEPARTMENTS/AGENCIES RECEIVING ALL HR SERVICES THROUGH HRD

Administration Office	Board of Supervisors	Clerk of the Board
County Counsel	Child Support	Civil Rights Office
Cooperative Extension	District Attorney	Elections
Human Resources	Information Technology	Public Defender
Sheriff-Coroner	Monterey County Free Libraries	
Monterey County Water Resources Agency		

DEPARTMENTS WITH HR STAFF WHO CARRY OUT SPECIFIC HR FUNCTIONS

Agricultural Commissioner	Assessor-Clerk Recorder	Auditor / Controller
Department of Social Services	Health	Natividad Med. Ctr.
Probation	Emergency Communications / 911	
Treasurer – Tax Collector	Resource Management Agency (RMA)	

[1] At that time the CAO had responsibility for the county Human Resources function, which was then merely a division of the CAO.

METHODOLOGY

Selected departments of Monterey County were chosen for review of policies, procedures, and practices related to employee services. The departments that were analyzed were matched in approximate size and complexity. Half of the departments selected provided their own Human Resources services while half utilized the services of the Human Resources Department.

The following information was obtained: 1) organizational chart of staff positions within the Department; 2) documentation of current budgeted positions; 3) documentation of positions by actual working/functional titles; 4) number and chart location of positions that have been created, eliminated, vacated and filled within the past fiscal year; and, 5) duration of any position vacancies (newly created or existing).

The Report issued by the 2006/07 Monterey County Civil Grand Jury also was reviewed, as were County budgets. Personnel Policies and Practices were researched. Finally, members of the Civil Grand Jury conducted interviews with several department heads and were provided with additional data based on the interviews.

DISCUSSION

Human Resources – the people – are the lifeblood of an organization. The Human Resources Department is the heart that pumps the blood and sustains the life of the organization. In general, Human Resources is charged with building and maintaining a healthy, viable, and productive workforce. Building the workforce, specifically recruitment and hiring, is key for Human Resources. It is foundational. Human Resources faces myriad challenges in maintaining today's workforce, including: compliance with laws and mandates, management, leadership, training and development, innovation, performance, compensation, and benefits. These

challenges take on an even greater scope for a Human Resources charged with building, managing, and sustaining the biggest workforce in the County. Approximately 5,200 County employees serve 438,000 Monterey County residents, as found in the 2017 Budget.

Vacancies

An example of two departments that have their own Human Resources staff are the Department of Social Services and the Health Department. Using data provided by each department, the Department of Social Services has 875 full-time-equivalent (FTE) employees including 20 Human Resources staff. The ratio of Human Resources staff to employees is approximately 1:44. Their vacancy rate in November 2019 was 8.3%. The Health Department has 1,102 FTE employees including 12 Human Resources staff. The ratio of Human Resources staff to employees is approximately 1:92. Their vacancy rate in November 2019 was 23%. This comparison suggests that the total Department staff has an effect on Departmental vacancy rates. Through several interviews it is evident that recruitment for both County personnel vacancies and rates of hire for positions in centralized or decentralized departments has not been occurring at an optimal level.

Training

The Learning and Organizational Development (LOD) Division of the central Human Resources Department was responsible for county workforce training. Due to budget-cutting measures implemented in the 2018/19 fiscal year, LOD lost all but one of its staff, who was reassigned to another Human Resources function. Consequently, the ability to deliver quality and effective employee training through its Learning and Development Network (LDN) system was eliminated. An exclusively online platform, Learning Management System (LMS) was put in place as a substitute.

The Monterey County Health Department participated in a County-wide Employee Engagement survey in 2019. A series of questions were posed, covering several areas related to workplace environment, including personal relationships, department

leadership, and “career development.” In regards to the latter, respondents reported a satisfaction rate of slightly more than 60% to the question: “I am satisfied with the job-related training Monterey County offers.” This result is not a high level of satisfaction as measured by the above-mentioned survey and leaves room for improvement.

A robust training program that includes in-person training is critical in recruiting and retaining valued employees, especially in a low unemployment environment. The investment in the educational advancement and leadership development of the County's employees may reduce the high cost of employee turnover over the long run.[2]

Compensation

The Human Resources Department handles compensation for the entire County workforce. In a competitive labor environment it is important for purposes of recruitment and retention that an organization carefully considers how it handles employment offers, compensation, benefits, promotions, raises, and bonuses.

As a tool to promote a structured approach and uniformity of outcome in the setting of employee compensation, Monterey County in the 1980’s adopted what it called a “Compensation Philosophy” (Appendix A). According to interviewee accounts, the Compensation Philosophy was an effort to use a market value mechanism to set wages. The County would look at what selected cities and counties in the state paid workers who occupied identical/similar positions to those being filled here. Dollar figures would be averaged, and that number would constitute the top of the compensation range for that same position in Monterey County. The comparison entities would be chosen based on a variety of factors, including similar cost of living and relative employer competitiveness. The list of these comparison agencies was last revised in 1989 and consists of eight counties and two cities.

[2]“To Have and To Hold,” https://www.shrm.org/hr-today/news/all-things-work/pages/to-have-and-to-hold.aspx

In human resources terminology, a Compensation Philosophy is a form of a mission statement, providing direction regarding an employee compensation budget. The Compensation Philosophy is used to develop a compensation policy or plan. This could include such items as types of compensation, how those different types will be used, and the definition of a market for comparison purposes. The practical use of "Compensation Philosophy" wording by Monterey County reflects archaic terminology. An example of a contemporary comprehensive Compensation Philosophy is presented in Appendix B.

The Civil Grand Jury concluded that the "Compensation Philosophy" described above was deficient in the following ways: 1) the 30-year old list of comparison entities is both unwieldy and outdated, and 2) the comparison's use of the average compensation rate paid by comparison entities as the top of the Monterey County pay scale acts as a disincentive for both current and potential employees. This Compensation Philosophy is unlikely to satisfy the County's need for contemporary market analysis in the establishment of competitive employee compensation packages. It is, therefore, less than fully effective in furthering the County's recruitment and retention goals.

The Civil Grand Jury noted that the County now recognizes the desirability of reviewing its Compensation Philosophy with a view toward possibly undertaking revisions, at least with respect to the list of comparison public entities governing calculation of the wage scale. An experienced compensation consultant could be of critical assistance in the creation of a comprehensive and easily understood employee compensation and classification program.

Recruitment

The employee vacancy rate among the various County departments runs from 0%-30%. As of November 2019, the employee vacancy rate in some areas of the Health Department ranged from 20%-30%. The lengthiest vacancies in that department were in the categories of Environmental Health Specialist, Psychiatric Social Worker, Nurse Practitioner, and Physician. According to witness testimony, there are several possible reasons for this vacancy rate, including non-competitive salaries and turnover of workers who use employment with Monterey County as a training ground for employment elsewhere.

The Health Department is one of the county departments with its own Human Resources function, operating under the 1999 “Partnership Memorandum of Understanding” with the County Administrative Office. The Employment Engagement Survey of 2019 for the Health Department, mentioned above, indicated that respondents gave a low score when asked if they are paid fairly for the work they do, and gave a low score when asked if the amount of work that they are expected to perform is reasonable. Witnesses testified that these low scores reflect the high vacancy rate which leads to an overburdened workforce.

The Civil Grand Jury was informed by interviewees that service areas of the Health Department’s Public Health Bureau which have seen the highest number of vacancies in the last three years are those that are not grant-funded and are primarily focused on communicable disease control/prevention. Among the Public Health program areas with the highest vacancy rates, communicable disease control/ prevention is the most impacted in terms of its ability to deliver services. Specifically, the ability to investigate reported incidents of tuberculosis and sexually transmitted diseases is adversely impacted. Also impacted are the case management activities of Public Health social work staff.

In the event of multiple job vacancies at any particular point in time, Public Health Bureau managers currently prioritize recruitment efforts to fill the vacancies. The

highest priority usually is given to nurses, according to those interviewed, because Health Department Human Resources staff is unable to apply its resources effectively to all concurrent Bureau openings.

The Health Department currently does not use monetary bonus incentives to fill vacancies. With the exception of physicians and some other hard-to-fill positions, relocation expenses are not offered. In addition, performance-based incentives are not a component of Monterey County's personnel policies and practices.

The Monterey County Personnel Policies and Practices Resolution (adopted 9-15-98, Updated 7-19-19), which includes the basic salary and benefits, and personnel rules and procedures for Monterey County employees generally, contains a section under Salary and Benefits section on employee incentive programs.

Section A.49.1 (Employee Bonus Programs, amended 4-29-08) reads in part:

a) All positions, except those at Natividad Medical Center

   An employment bonus of up to $5,000 may be paid to new, permanent employees hired into 'difficult-to-fill' positions as determined by the County Administrative Officer…

Section A.49.2 (Employee Referral Bonus Program, amended 4-29-08) reads in part:

a) All positions except those at Natividad Medical Center

   A bonus of up to $2,000 may be paid to permanent employees who refer successful candidates hired into 'difficult-to-fill' positions as determined by the County Administrative Officer…

Section A.49.3 (Employee Relocation/Moving Allowance, revised 7-22-08) reads in part:

> The County Administrative Officer may approve relocation and/or moving expenses for newly hired county employees, except those appointed by the Board of Supervisors. The County Administrative Officer may authorize a Relocation Moving Allowance of up to $10,000. S/he must request Board of Supervisors authorization for Relocation/Moving Allowance in excess of $10,000…

The Civil Grand Jury learned that none of these incentives were utilized, except for relocation expenses for physicians on a limited basis.

As learned in several interviews, the ability of departments across the County to recruit, hire, and retain qualified candidates depends upon a robust recruitment function as well as a compensation structure that allows Monterey County to offer competitive compensation and benefits in an environment that supports the employee's career aspirations. Successful on-going recruitment of employees to fill critical positions prepares the County to provide the services and protections needed by residents of Monterey County, even in light of the COVID-19 crisis.

FINDINGS

F1. As evidenced by interviews, the current level of vacant health care positions has a direct and negative impact on the County by reducing the County's ability to deliver community disease control and prevention outreach, and to provide adequate Public Health case management activities. This also creates an undue burden on the remaining staff that leads to job burnout.

F2. Critical positions such as public health nurse practitioners, psychiatric social workers, environmental health specialists, and physicians are not being filled in a timely manner.

F3. Human Resources staffing levels in some Departments are insufficient to maintain optimum staffing levels.

F4. Current County personnel vacancy levels and rates of hire confirm that recruitment has not been occurring at an optimal level in either the centralized or the decentralized departments.

F5. The compensation plan (currently called “Compensation Philosophy”) in use by Monterey County is outdated; the list of public agencies used for “market survey” comparison was last updated in 1989, more than 30 years ago.

F6. As discussed in interviews, on-line learning systems may provide critical on-demand training, but they cannot replace the human interaction that occurs in person-to-person training, which supports job satisfaction.

RECOMMENDATIONS

When the 2019/20 Civil Grand Jury began our investigations, COVID-19 had not yet become a public health crisis. However, as we conclude our reports, we are tasked to specify a time frame within which to address our recommendations. We have done so, attempting to allow some extra time given the current situation. We ask the County Supervisors, Departments, Cities, and Special Districts responsible for enacting our recommendations to do their best to accomplish these goals as expeditiously as possible, given the effect of the current pandemic crisis on staffing availability.

R1. The “Compensation Philosophy” should be updated to reflect appropriate and comparable counties and cities for each job classification. This update should be completed in six months.

R2. County Human Resources should engage an experienced compensation consultant to assist in the creation of a transparent and global compensation and classification program. This should be completed in three months.

R3. Budgeted positions should be posted in a timely manner giving priority to posting positions that affect the health and safety of County residents. This posting should occur within 60 days.

R4. Open positions should be proactively advertised within 30 days of an employment vacancy or upon notice of retirement, transfer, or resignation to avoid reduction of essential public services, departmental job burnout, and overtime or temporary hiring expense.

R5. Each budget cycle should include specific opportunities for department heads to identify and justify specific referral and hiring bonuses for their hard-to-fill positions. This process should begin within six months of the date of this report.

R6. In order to ensure an adequate staffing level for essential County public health workers, the County should begin a process to identify supplemental funding sources to mitigate un-forecast budget shortfalls in federal and state grants, aid, or other direct program funding. This analysis should be completed in 30 days.

R7. The Learning and Organizational Development Division of the Human Resource Department should be restored to include classroom training. This should be completed within 18 months.

R8. The County should conduct a review to determine the level of Human Resources staffing, both in the departments and in the Human Resources Department, that can provide support levels sufficient to achieve the 10%

vacancy rate goal as assumed with the County budget. This review is to be completed within 15 months.

REQUESTED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Civil Grand Jury requests responses to the Findings and Recommendations from the following governing body within 90 days:

- Monterey County Board of Supervisors
  Findings: F1 – F6
  Recommendations: R1 – R8

INVITED RESPONSES

- Director of Human Resources, Monterey County Human Resources Department
  Findings: F3, F4, F5, F6
  Recommendations: R1 – R4, R7, and R8

- Director of Health, Monterey County Health Department
  Findings: F1, F2
  Recommendations: R2, R3
- County Administrative Officer, Monterey County Administrative Office
  Recommendations: R5, R6

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Civil Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

APPENDICES

Appendix A – Monterey County Compensation Philosophy
https://www.co.monterey.ca.us/government/departments-a-h/human-resources/human-resources/human-resources-services/compensation-philosophy

Appendix B – San Mateo County Compensation Philosophy
https://hr.smcgov.org/sites/hr.smcgov.org/files/documents/files/Classification%20and%20Compensation%20Guideline.pdf

Appendix A

Search...

HUMAN RESOURCES SERVICES
The Right Career, Right Here

COMPENSATION PHILOSOPHY

In 1989, Monterey County implemented a change in their "market survey" comparison agencies list, utilized for compensation comparison purposes. The new comparison agencies was based on the following considerations:

1. Coastal geographic location potentially reflecting similar living conditions and cost of living;
2. Neighboring counties;
3. Agencies which impact our ability to recruit, hire and retain employees;
4. Agencies which as a group would provide a common frame of reference for job comparisons; and
5. A group of agencies which would provide a common market survey base for the majority of both management and represented classes. Monterey County will retain the flexibility to use a special group of comparison agencies for highly specialized classes.

Based on the above criteria, the comparison agencies are the following:

- San Mateo
- Santa Clara
- Santa Cruz
- San Benito
- Fresno
- San Luis Obispo
- Santa Barbara
- Ventura
- City of Monterey
- City of Salinas

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Appendix B

COMPENSATION PHILOSOPHY

General Information

The County's compensation strategy supports County beliefs and aims to maintain external competitiveness and internal equity. It takes into account the following:

- Compliance with County obligations as stated in the Charter and Ordinance Code
- Fair compensation to employees
- Competitive compensation to attract applicants
- Comparability to other jurisdictions and agencies
- Budget and organizational issues and projections
- Trends, cost of living and funding issues
- Union agreements and issues
- Classification versus compensation issues

The County's compensation strategy focuses on the Bay Area labor market and include public employers both at the County and City level, and which may also include specialized private and public sectors for a few select jobs. The strategy uses a combination of market pricing and job ranking approach to pay determination.

Labor Market Comparators

San Mateo County compares salary information with:

- The four larger Bay Area Counties: San Francisco, Contra Costa County, Alameda County and Santa Clara County, and
- The two largest cities in the four comparator Bay Area Counties: Oakland and San Jose.

For medical related classes, the following jurisdictions are used for comparisons:

- Alameda County Medical Center
- Contra Costa Regional Medical Center
- Santa Clara Valley Medical Center
- San Francisco General Hospital

These agencies are used as comparators due to their geographic proximity to the County. These employers will have a significant impact on the labor market within which the County competes for talent pool.

For select classifications, the County may consider jurisdictions other than those identified above. The use of data from other agencies is done on a case-by-case basis. For example, for airport-related technical positions, the County has historically used the counties of Contra Costa, Santa Clara, Napa, Sonoma, and the cities of Hayward, Livermore, Tracy and Watsonville as these agencies have airport operations most comparable to the County's airports.

Labor Market Position

It is the intent of the County compensation policy to have salary rates for County positions adjusted if found to be significantly behind market, so that the new salary upon implementation is at the mean of the data for the comparator agencies. Generally, any adjustments greater than a standard annual adjustment amount are considered equity adjustments and are spread over the term of the contract period.

Relevance of External Data

To be considered comparable, data must be available from at least three comparable agencies. Agencies may be excluded from the data if the standard deviation for the comparator agencies salaries is greater than 10% of the County current base salary.

Timing of Salary Adjustments

Salaries are generally adjusted only during term bargaining for represented classes. For most management classifications, salaries are generally adjusted after completion of term bargaining with the County's major unions.

During periods of limited financial resources, equity adjustments are generally limited to classifications that are both significantly behind comparator data and for which the County is experiencing significant recruitment and retention problems. Where both conditions do not exist equity adjustments are generally not made.

Salary adjustments for management positions - Salaries for management classifications are assigned to a band. The bands are in increments of 5%. When making equity adjustments for management classifications, salaries are adjusted to the next closest band.

CLASSIFICATION PHILOSOPHY

General Information

Rule IV of the San Mateo County Civil Service Rules requires that all positions covered by the CS Rules be "classified according to the duties and responsibilities assigned." Titles, qualifications, and selection criteria of these classes should be logical, consistent and fair. This required information is presented in the form of a classification specification (herein referred to as "class spec").

Class specs are core documents for the County's civil service system and include essential types of information as required by Civil Service Rule IV, Section 2:

> SECTION 2. CONTENT: All classification specifications shall contain a title, the distinguishing characteristics of the work, illustrative examples of duties and the minimum qualifications required to perform the work. Classification specifications shall include only those educational, training, physical and experience requirements, which are essential to adequate job performance. The content is illustrative and shall not be construed to be comprehensive or to limit the authority of department heads to direct and control the work of employees. Classification specifications will be prepared so as to promote the goals of affirmative action, to encourage upward and lateral mobility of employees, and to avoid the creation of dead end jobs. The classification specifications shall constitute a guide for establishing minimum employment standards, for examinations, and for evaluating the qualifications of applicants. The title of the classification shall be the title of all positions in the classification and shall be used on all official records.

In addition to these specifications, departments should establish performance standards and may develop more detailed job descriptions to assist employees in understanding their specific positions' responsibilities and level of performance expected.

Class Concepts

- San Mateo County prefers broad class concepts. Broad class concepts describe highly similar positions in one class concept, which usually results in a lesser number of class specifications.

  Broad classes focus on broader knowledge, skills and abilities (KSAs) common to a large number of positions. There is a less exact fit of the employee to the position in this design but management flexibility is greatly expanded.

- San Mateo County employs multi-level classifications. The County groups similar duties under one classification but also recognizes that duties within these classifications are performed at varying levels of responsibilities.

  The most common example of multiple-level classification is the entry/journey combination (e.g., Park Ranger I-II) in which employees are performing exactly the same types of duties though the I-level is learning and performing them as a trainee. Another common pattern is entry through advanced journey (e.g., Biologist Standards Specialist series). In these cases, the class spec makes clear the difference in duties and KSAs between each level.

Role of HR and the County Manager's Office in Classification

The Human Resources Department works very closely with the County Manager's Office (CMO) on classification issues that impact organization structure, budgeted positions, compensation, and all changes to the annual salary ordinance (i.e., periodic salary ordinance amendments).

On classification issues, the HR Director serves as the HR Director and the Executive Officer to the Civil Service Commission and is the final decision-maker on class issues affecting classified employees. When a classification action in any way impacts on the salary ordinance/budgeted positions, however, (e.g., a reclassification, a reorganization, or a salary range change), this requires review and approval by the County Manager prior to any action on the part of HR to evaluate the request.

Due to the potential fiscal impact of classification requests and the CMO's in-depth knowledge of current and potential organization/budget issues, all reclass requests are reviewed and approved for review by the CMO prior to HR undertaking a study.

In all cases, departments should be encouraged to discuss proposed classification actions with HR prior to submittal to the CMO so that various alternatives and solutions to perceived issues or problems could be explored in depth.

Definition and Purpose of a Class Study

A classification study is the process of thoroughly researching, analyzing, determining, and documenting the responsibilities, duties, knowledge, skills, and abilities related to a position (not a person) for classification, organizational or related purposes.

Classification studies are conducted to insure that a classification system is equitable and consistent within an organization, and that employees are fairly classified. Common types of classification studies are:

- Reclassification
- Reorganization
- Classification of newly budgeted positions
- Compensation review
- Establishment of new classifications

Who Can Initiate a Class Study?

- Department Managers
- Unions and Management (through contract negotiations)
- Human Resources (typically countywide studies or as a result of a reorganization or implementation of new technology or system)
- Board of Supervisors (as part of approving funding for new positions)

Employees may request classification studies through department managers. If denied, they may contact their representation group for further action.

Reclassification Studies

Reclassification is the process of reviewing the classification of a position for possible reallocation to another classification. Reclassification studies could result to the any of the following:

- Reclassification upward to a class with a higher salary and/or level.
- Reclassification downward to a class with a lower salary and/or level.
- Lateral reclassification to a class in the same salary range/level.

Reclassification should only be considered when there is substantial change in job duties over a period of time.

Factors Considered in Reclassification Studies

The following factors are considered when reviewing requests for reclassification studies and when conducting analysis in the course of reclassification study:

1. Nature, variety and scope of work
2. Complexity of work
3. Supervision or guidance received and exercised
4. Consequence of errors
5. Nature and finality of decisions

Factors NOT Considered in Reclassification Studies

The following factors are not considered when reviewing requests for reclassification studies and when conducting analysis in the course of reclassification study.

1. Person's length of service in the position or in the department and his/her loyalty to the department
2. Quality of incumbent's performance
3. Volume of work or changes to the volume of work
4. Person's current salary step
5. Person's dependability
6. Personal qualifications and experience (if not directly related to or required of the position)

Reclassification study is not to be used as a method for rewarding good performers or addressing poor performance.

Steps – Reclassification of a Filled Position to Existing Class

1. Department sends Reclassification Request Form to CMO with a copy to HR.

2. CMO and HR review requests during monthly Class/Comp Meetings.

3. If request is approved, Class/Comp Manager (CC Mgr) notices department head, direct manager and union (if represented class).

4. If denied, CMO returns denied request to the manager requesting the study.

5. CC Mgr assigns study to an HR Analyst.

6. HR Analyst contacts incumbent(s) and respective manager(s) and sends out a Job Description Questionnaire (JDQ). Incumbent, his/her direct manager/supervisor and the department head must complete the JDQ.

7. JDQ is sent to HR Analyst who will prepare a reclassification study workplan. Workplan is sent to the incumbent, his/her direct manager/supervisor, manager requesting the study (if different from direct manager/supervisor), and CC Mgr.

8. HR Analyst reviews JDQ and schedules a desk audit, if necessary.

9. HR Analyst conducts desk audit and additional interviews as needed.

10. HR Analyst confers with CC Mgr on findings and possible recommendations.

11. HR Analyst prepares a report of findings and recommendations (Reclass Study Report) and submits to CC Mgr.

12. CC Mgr reviews the study and makes changes as necessary.

13. If report and recommendation is approved, CC Mgr forwards the report to the manager requesting the study.

14. Manager, HR Analyst and CC Mgr discusses recommendations and modifies report and/or recommendation as necessary.

15. HR Analyst prepares letter to Union(s) and gives union two weeks notice to request a meet-and-discuss regarding the matter.

16. Union representative and/or department manager discusses findings and recommendations with the incumbent(s).

17. After meeting all union obligations, HR Analyst prepares and submits to the CC Mgr a Salary Ordinance Amendment (SOA) entry.

18. CC Mgr incorporates SOA entry to the monthly SOA submitted to the Board of Supervisors.

19. SOA goes through 2 readings by the Board.

20. Upon adoption, reclassifications are effective 30 days after receipt of JDQ by HR for positions represented by SEIU and AFSCME. For all other positions,

reclassifications are effective at the start of the pay period, 30 days following Board adoption.

Steps – Reclassification of a Filled Position to a New Class

1. Follow steps 1 through 10 of Reclassification to Existing Classification.

2. HR Analyst conducts survey of comparable agencies, reviews similar internal classifications, interviews subject matter experts, and researches other sources for information regarding the new classification.

3. HR Analyst and CC Mgr discuss the new classification and determine appropriate salary range to propose to department.

4. Department reviews draft class spec and proposed salary and offers comments and suggestions.

5. Upon department agreement to classification and compensation, HR Analyst completes report of findings and recommendations (Reclass Study Report) and submits to CC Mgr.

6. CC Mgr reviews the study and makes changes as necessary.

7. If report and recommendation is approved, CC Mgr forwards the report to the manager requesting the study. Report includes information regarding the new classification. A cover letter from the CC Mgr accompanies the report with details regarding the proposed salary.

8. Manager, HR Analyst and CC Mgr discusses recommendations and modifies report and/or recommendation as necessary.

9. HR Analyst prepares letter to Union(s) and gives union two weeks notice to request a meet-and-discuss regarding the matter.

10. Union representative and/or department manager discusses findings and recommendations with the incumbent(s).

11. After meeting all union obligations, CC Mgr prepares and submits a Civil Service Commission Agenda item. Item includes a brief description of the classification, rationale behind its creation, proposed bargaining unit allocation and probationary period.

12. Civil Service Commission rules on the classification and CC Mgr notices appropriate department of its ruling.

13. Upon approval of the Civil Service Commission, HR Analyst prepares and submits to the CC Mgr a Salary Ordinance Amendment (SOA) entry.

14. CC Mgr incorporates SOA entry to the monthly SOA submitted to the Board of Supervisors.

15. SOA goes through 2 readings by the Board.

16. Upon adoption, reclassifications are effective 30 days after receipt of JDQ by HR for positions represented by SEIU and AFSCME. For all other positions, reclassifications are effective at the start of the pay period, 30 days following Board adoption.

Steps – Reclassification of a Vacant Position

1. Department prepares a description of the duties and responsibilities of the position.

2. CC Mgr reviews the duties and proposes appropriate classification.

3. Once appropriate classification is determined (and established, in the case of new classifications), CC Mgr prepares and submits an SOA to the Board.

If above action requires creation of a new classification, steps 2-12 of Reclassification to a New Classification.

Y Rating for Downward Reclassifications

Y Rating is the practice of continuing an employee's salary at a higher rate when the position has been reclassified to a classification that has a lower rate of compensation through a reclassification study. This is also referred to as "red lining."

The County's policy with respect to Y Rating is to provide an employee with the salary increases, if any, that the old classification would have received for a two-year period; and then freeze the salary until the salary for the new classification equals or exceeds the salary that the employee is receiving. At that point, the employee would again receive salary increases.

Definitions of Commonly Used Terms

Listed below are terms and phrases commonly used in connection with classification studies:

Classification: A collection of related duties and responsibilities that are grouped into a single body of work.

Classification Family: A group of classification series that are related by the similarity of functions performed. Examples include Management, Office Support, Paraprofessional, Technical, Skilled Crafts, and Professional.

Classification Plan: A document that generically defines levels of related classifications, forms a basis on which to classify future positions, and maps out their relationships to one another. Classification Plans are developed for classification families and when all of the classification plans are grouped together, they form the comprehensive listing of all County classifications. Classification plans assist in determining classifications and their levels within the County system.

Classified Position: A position in which the incumbent is covered by the provisions of the Civil Services Rules.

Classification Definition: A brief statement (two to four sentences) that describes the essential nature of the classification.

Classification Series: A group of classifications that are related by the performance of similar duties and responsibilities requiring the same knowledge, skills and abilities, but requiring them at increasingly higher levels of command. Examples include: Office Assistant I, Office Assistant II, Office Specialist, Lead Office Assistant, and Office Services Supervisor; and Management Analyst I, Management Analyst II, Management Analyst III, and Principal Management Analyst.

Classification Specification: A document that broadly describes the responsibilities, duties, and qualifications related to a particular type of job or similar group of jobs. May also be known as Classification Descriptions.

In a merit system, this document is essential in that it forms a basis to ensure that employees and potential employees are being treated fairly. The list of qualifications in each specification is used both for evaluation and formal testing purposes (components in tests are related to the qualifications listed). This

protects the County from evaluating or testing individuals on what might appear to be unfair or irrelevant items.

Also known as Job Specification.

Classification Study: The process of thoroughly researching, analyzing, determining, and documenting the responsibilities, duties, knowledge, skills, and abilities and other requirements related to a position (not a person) for classification, organizational or related purposes. For example, a study may be conducted in response to a reclassification request, to develop/revise a classification specification, or to assist in reorganization.

Classification Title: A brief and descriptive designation of the type of work performed. The classification title on payrolls, budgets, personnel reports and other official forms and reports dealing with positions or personnel will provide a common reference to the position. The classification title is selected to serve this purpose and does not limit the use of working titles.

Dictionary of Occupational Titles: A document printed by the U.S. Department of Labor that lists thousands of commonly used classification titles. Used as a reference document in creating new classification titles.

Distinguishing Characteristics: A section of the classification specification that differentiates the specific classification from all other related classifications in the County structure with emphasis on the differentiation between classifications in the same classification family and series. This is used when the **Definition** section cannot make an adequate differentiation between classifications. This section includes statements that clarify the essential nature of the work and the level of difficulty and responsibility involved. Distinctions as to level are expressed through statements about the difficulty and complexity of the work, the nature and extent of specific non-supervisory, supervisory or administrative duties and responsibilities, special hazards and the nature and method of supervision received.

EEOC Category: The occupational category defined by the Equal Employment Opportunity Commission for job titles. It is used for statistical reporting.

Established Date: A section of the classification specification that identifies the date that the classification specification was approved by the Civil Service Commission.

Examples of Duties: A section of the classification specification that lists typical duties performed by incumbents in the class. Duties are written in general terms, but enable the reader to obtain a more complete concept of the actual work performed.

The list is not intended to describe all the work performed in all positions in the class, nor do all examples apply to all positions allocated to the class. In the more populated classes only one portion of one work example may apply to a given position. The content is illustrative and is not comprehensive or meant to limit the authority of department heads to direct and control the work of employees. This section is not a substitution for the Distinguishing Characteristics section.

Fair Labor Standards Act (FLSA) Status: The status that identifies whether or not the classification in covered by the Fair Labor Standards Act. The FLSA status is exempt or non-exempt, or FLSA may not apply.

Job Class Code: The four-digit code that identifies the payroll code for the classification.

Knowledge and Skills/Abilities: A section of the classification specification that identifies of the attributes that an applicant must have in order to be successful in performing the tasks and responsibilities of a particular classification. A statement is considered knowledge if it describes the command of facts, rules, standards, practices, principles, etc. (what is to be known). A statement is a skill/ability if it describes the application of knowledge or understanding to the required activity (what is to be done).

Qualifications: A section of the classification specification that lists the typical or required education and experience for the job; the licenses, certificates and registrations required by law; the knowledge, skills, abilities and physical attributes needed to do the work; and the special requirements that may apply to specific positions.

Revised Date: A section of the classification specification that identifies the date that the most recent classification specification revision was approved by the EPS Director.

Supervision Received and Exercised: A section of the classification specification that describes the level of supervision received and exercised by positions in the class. This is usually provided only in management classifications.

Unclassified Position: A position in which the incumbent is not covered by the provisions of the Civil Services Rules.

Union Agreement: An agreement reached between a union/association with the County through formal contract negotiations/meet and confer processes. May also

be known as a union contract, memorandum of understanding, or memorandum of agreement.

SEXUAL HARASSMENT PREVENTION
#TrainingCompliance

SUMMARY

It is an unfortunate reality of our times that sexual harassment remains a challenge in our workplaces. California has enacted many measures to prevent harassment, and to mandate that our communities combat this problem both in action and by education. The Civil Grand Jury has chosen to review one part of that education, the responsibility of local governments to train workplace supervisors in sexual harassment prevention in accordance with Assembly Bill 1825 (AB 1825).

Government enacts labor laws to protect workers and to create safe, productive workplace environments for all employees. Therefore, governmental entities should be held to the highest standards under the law and should serve as models of compliance.

This Civil Grand Jury investigation determined that compliance levels vary widely among the different jurisdictions in Monterey County. Three jurisdictions stood apart in their ability to achieve AB 1825 training compliance at 80% or above. These were: King City, Marina, and Soledad. This is more remarkable than it first appears. For example, two other cities had no AB 1825 training records prior to 2017 but are now getting on track. Several other cities had incomplete or inaccurate supervisory rosters, were missing training records to document timely training, had out-of-date policies, or had other substantial deficiencies. Four other local jurisdictions offer a choice of classroom or e-learning training, or even webinar training. This is a sound approach to ensuring wide access to AB 1825 training, but it also complicates their recordkeeping systems, and resulted in gaps in timely training for some supervisory employees. Finally, one city had 75% compliance based on their elected training tracking method but would have had a 100% compliance with the alternate tracking option.

Overall, the jurisdictions investigated by the Civil Grand Jury recognize the requirement and the practical value of doing AB 1825 supervisor training properly, but many did not devote the resources or the priorities to ensuring the training was done in accordance with state mandates.

GLOSSARY

2 CCR §11024 (Title 2, California Code of Regulations, Section 11024): the state administrative regulation, having the force of law, implementing the G.C. §12950.1 law mandating sexual harassment prevention training and education based on sex, gender identity, gender expression, and sexual orientation.

24-Month Tracking Method: requires that a supervisory employee be retrained within 24 months since his or her prior AB 1825 training.

AB 1825 (Assembly Bill 1825): legislation enacted in 2004 that imposed a supervisory employee sexual harassment training requirement on California employers effective January 2005.

AB 2053 (Assembly Bill 2053): a 2014 legislative amendment, effective January 1, 2015, which expanded the AB 1825 training requirement to include prevention of "abusive conduct."

Civil Grand Jury: Monterey County Civil Grand Jury.

CJPIA (California Joint Powers Insurance Authority): a joint powers authority focused on risk management and regulatory compliance.

Classroom Training: in-person, trainer-lead instruction, with instruction conducted in person by a qualified trainer in an organized manner, utilizing lesson plans in a setting removed from the supervisor's daily duties.

CY (Calendar Year) January 1 – December 31

DFEH (Department of Fair Employment and Housing): the state governmental agency responsible for enforcement of the Fair Employment and Housing Act (FEHA) and Title VII of the federal Civil Rights Act of 1964 statutory and case law principles concerning the prohibition against and the prevention of unlawful harassment, discrimination, and retaliation in employment.

EEOC: The federal Equal Employment Opportunity Commission

E-Learning Training: individualized, interactive, computer-based training created by a trainer and an instructional designer. Requires access to a live trainer who can answer questions.

Employer (as defined in AB 1825): private employers with 50 or more employees, the State of California, any political or civil subdivision of the state, and cities.

FEHC (Fair Employment and Housing Council): the implementing agency for California anti-discrimination laws and policies, also (DFEHC).

FY (Fiscal Year): July 1 – June 30: the one-year period used by the State of California for financial reporting and budgeting.

G.C. (California Government Code of Regulations) §12950.1: The AB 1825 law mandating California employers to train employees with the objective of changing workplace behaviors that create or contribute to harassment.

HR (Human Resources): a department of an organization that deals with the hiring, administration, and training of personnel.

JPA (Joint Powers Authority): Joint Powers Authorities are legally created entities that allow two or more public agencies (e.g. local governments, or utility or transport districts), to jointly exercise common powers for the purpose of providing public services more efficiently and in a cost-effective manner.

LEARN/LDS: Monterey County's Learning Development System

LMS (Learning Management Specialist): an employee who serves as a liaison and an AB 1825 training coordinator between the Monterey County Civil Rights office and various departments and divisions within the county.

Jurisdiction (local jurisdiction): a county, city, or incorporated town.

MBASIA (Monterey Bay Area Self Insurance Authority): a joint powers authority focused on risk management and regulatory compliance.

MCCRO (Monterey County Civil Rights Office): the responsible office for AB 1825 training for the county's government employees.

Municipality: a city or town that has corporate status and is a local government entity.

Regulation: a rule or requirement enacted by a governmental agency appointed by a governing federal or state body to implement and enforce compliance of a given law (a statute).

SB 396 (Senate Bill 396): California legislation signed into law in 2017 and effective January 1, 2018, that expanded AB 1825 training requirements to include harassment based on gender identity, gender expression, and sexual orientation.

SB 1343 (Senate Bill 1343): a further amendment to G.C. §12950.1 (effective January 1, 2019) expanding AB 1825 training requirements to private employers with five or

more employees (rather than 50) and requiring harassment abusive conduct training for *all* employees (not just supervisors), as of January 1, 2020. This compliance date was extended one year to January 1, 2021 by SB 778, effective August 30, 2019).

Statute: written law passed by a legislative body (federal or state).

Supervisor and Supervisory Employees: supervisors located in California, as defined under CCR Section 12926. Attending a training does not create an inference that an employee is a supervisor or that a contractor is an employee or a supervisor.

Training Year Tracking Method: requires a supervisory employee be retrained sometime within the year in which 24 months has passed since his or her prior AB 1825 training.

Webinar Training: an internet-based seminar whose content is created and taught by a trainer and transmitted over the internet or an intranet in real time. Acceptable webinars must allow supervisors to ask the trainer questions.

BACKGROUND

Title VII of the Civil Rights Act of 1964 prohibits discrimination in the workplace, and subsequent federal regulations prohibit workplace harassment in more detail. Mandatory harassment prevention training, however, is currently required by only six states—California, Connecticut, Delaware, Illinois, Maine, and New York.[1] (It is important to note that 13+ other states require training of only a specific group.) It is not surprising that workplace sexual harassment remains a problem across the nation.

[1] Johnson, Michael. "Sexual harassment training essential in all states, not just those with mandatory state training laws." Clear Law Institute. 6 January 2020. https://clearlawinstitute.com/blog/harassment-training-essential-employees-states-not-just-california-supervisors/

California's actions to address the issue of workplace harassment have been many and far reaching. California's statute governing mandatory sexual harassment prevention training originated in 2004 with the enactment of AB 1825. This law first launched a supervisory employee sexual harassment training requirement for California employers starting in 2005. "Employer" was specifically defined in the statute to include private employers with 50 or more employees, the state and all county governments in California, political or civil subdivisions, and all California cities. This law required employers to provide sexual harassment training to all supervisors within six months of assumption of their positions, and every two years thereafter.

The statute was amended in 2014 by AB 2053, that became effective January 1, 2015. This law extended the training requirement to include "abusive conduct." It was further amended in 2017 by Senate Bill 396 (SB 396), effective January 1, 2018, to include harassment based on gender identity, gender expression, and sexual orientation. Both laws were directed to be part of the training and education specified in G.C. §12950.1(a).

SB 1343, effective January 1, 2019, extended the law's reach to employers with as few as five employees (beyond the previously mandated employers with 50 or more employees), and it mandated harassment/abusive conduct training for *all* employees (not just supervisors), starting January 1, 2020. The California legislature extended the compliance date one year, to January 1, 2021, via Senate Bill 778 (SB 778).

The SB 396 amendment (gender identity, etc.) is self-explanatory. The AB 2053 amendment (abusive conduct) requires further explanation. "Abusive conduct," commonly referred to as "bullying," is defined in G.C. §12950.1(h)(2) to be: "verbal or physical workplace conduct by either employer or employee, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests," or the "gratuitous sabotage or undermining of a person's work performance." A single act will suffice if "especially severe and egregious."

California Government Code §12950.1 is the codified statute for the AB 1825 training requirement. A statute involving government enforcement typically delegates that responsibility to an appropriate government agency. For G.C.12950.1, that agency is the California Department of Fair Employment and Housing (DFEH). (See G.C. §12935(a)(1).

Acting on behalf of DFEH, the state Fair Employment and Housing Council (FEHC) has adopted a regulation titled, *Required Training and Education Regarding Harassment Based on Sex, Gender Identity, Gender Expression, and Sexual Orientation.* This regulation is found in Title 2, section 11024 of the California Code of Regulations (2 CCR §11024). The most recent amendments, effective April 1, 2016, do not reflect the 2017 gender/orientation additions.

The regulation explains the essential elements of an anti-harassment policy and how to utilize it if a harassment complaint is filed. It requires employers to provide supervisors with a copy of the employer's policy regardless of whether the policy is used as part of its AB 1825 training. Each supervisor is required to read the employer's policy and to acknowledge receipt of that policy.

This is the complicated framework under which AB 1825 supervisor training must be provided for all supervisory employees within six months of when they assume their duties, and every two years thereafter.

METHODOLOGY

Measuring compliance with the training requirements in G.C.§12950.1 can be as complicated as the code itself. Enforcement metrics are provided in the code, and practical standards for meeting the compliance guidelines for training content and even recordkeeping have evolved concurrent with changes to the code. The Civil Grand Jury used the 2 CCR §11024 regulation as its roadmap to measure compliance in the 13 jurisdictions investigated. As noted above, the regulation provides direction that the Civil

Grand Jury used to assess the essential areas of content subject matter and process (trainer qualifications, method of delivery, recordkeeping, etc.)

Investigatory Framework

The Civil Grand Jury adopted a straightforward investigative model. It chose DFEH regulation 2 CCR §11024 as the benchmark for measuring mandated training compliance, and subsequently collected documentary evidence and witness testimony. Thereafter, the Civil Grand Jury analyzed the material to assess the extent to which it matched the respondent jurisdiction's efforts to comply with the regulation. Next, the Civil Grand Jury conducted in-person interviews with personnel from each government entity investigated, in order to validate compliance, gather more detail, and develop an accurate picture of each jurisdiction's situation. Lastly, the Civil Grand Jury arranged exit interviews with appropriate representatives from the County of Monterey and the 12 cities investigated to confirm its findings.

The first step in the investigation focused on written materials–specifically, recordkeeping requirements mandated by the applicable state laws and imposed on the responsible parties. Subsection (b)(2) of 2 CCR §11024 details the training documentation that an employer must maintain. On October 15, 2019, the Civil Grand Jury issued letters to the above-referenced Monterey County government entities that were selected for this investigation. The Civil Grand Jury requested the following documentation which was quoted directly from 2 CCR §11024:

> Documentation of Training. To track compliance, an employer shall keep documentation of the training it has provided its employees under this section for a minimum of two years, including but not limited to the names of the supervisory employees trained, the date of training, the sign in sheet, a copy of all certificates of attendance or completion issued, the type of training, a copy of all written or recorded materials that comprise the training, and the name of the training provider.

The county and municipalities responded to the request and the Civil Grand Jury evaluated the materials provided.

Some jurisdictions also submitted additional training records through Year End 2019 (YE2019) to validate supervisor retraining within a two-year period. These jurisdictions used the Training Year Tracking method (see Glossary). Our training calculations excluded supervisory employees who separated employment, or who were on a leave of absence before the Training Year or before the 24-month training deadline ended.

DISCUSSION

It has been 29 years since Anita Hill shocked the nation with her testimony at Supreme Court Justice Clarence Thomas' confirmation hearing. Fifteen years later, in 2006, Tarana Burke coined the phrase "Me Too" to help women who had survived sexual violence, and to raise awareness of the pervasiveness of sexual abuse and assault in society. Today, our media still reports on far too many accounts of sexual abuse and assaults, with allegations and even convictions against famous celebrities and public figures alike.

High profile celebrity cases, however, are not the only setting where sexual harassment may occur. Those who work and live in all parts of our society, both in private enterprise and public government can encounter this crime. This is true even for our own local jurisdictions, where threats from sexual harassment and toxic work environments can exist as well. In 2018, for example, local media reported on the toll of sexual harassment within some Monterey Peninsula city governments. Sexual harassment not only harms our citizens, it has a significant monetary cost. Hundreds of thousands of dollars in fines and settlements divert funds from essential government-provided services. Sexual harassment harms victims and harms our communities' trust in society and each other, but it also harms us financially. This report cannot address those issues, but it can review the compliance with training that is essential to prevent those issues from occurring in our community governments.

Training

All employers know that *training* is a key preventive measure to safeguard the workplace, and the organization, against a hostile workplace environment and the liability, ligation, and damages that can result from such an environment.[2] California recently established the Government Operations Agency to oversee and ensure that all government agencies were "at or near full compliance" with supervisors' sexual harassment training. This is the California governor's personal response to multiple media reports that pointed out our state's inability to comply with requirements to *"provide sexual harassment training to all supervisors."* One of these reports[3] for example noted that in 2018, nearly 60% of state agencies surveyed did not provide sexual harassment training to their supervisors. California DFEH Director, Kevin Kish, admitted, "You have an enforcement model where basically people are not incentivized to comply up front."[4]

Based on this background, the Civil Grand Jury decided to investigate compliance with mandated sexual harassment prevention training for supervisors in Monterey County's 13 local jurisdictions. These jurisdictions included the County of Monterey and the 12 incorporated cities within the county's borders. The scope of the investigation focused on training materials and delivery, training management procedures, and administrative compliance.

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2 Feeney, E. "The importance of effective sexual harassment prevention training." ADP Spark blog. 2 April 2020. https://www.adp.com/spark/articles/2020/01/the-importance-of-effective-sexual-harassment-training.aspx#

3 Rodd, S. (2018, May 28)."It's Inexcusable': Dozens of California Government Agencies Failed to Provide Sexual Harassment Training to Nearly 1,800 Supervisors." *Capital Public Radio (KXJZ Sacramento)*. http://www.capradio.org/articles/2019/05/28/its-inexcusable-dozens-of-california-government-agencies-failed-to-ensure-sexual-harassment-training-to-nearly-1800-supervisors/

4 *Associated Press.* "California State Agencies Not Giving Required Harassment Training." *KPIX CBS SFBayArea*, 28 May 2019. https://sanfrancisco.cbslocal.com/2019/05/28/california-state-agencies-not-giving-required-harassment-training/

Although local media noted that Monterey Peninsula cities also had been reviewing and updating their AB 1825-related policies,[5] our investigation found that not all jurisdictions had completed this update, even two years later.

The objective of AB 1825 training requirements for supervisory employees is to eliminate, or at least reduce, incidents of harassment in the workplace. The goal is a safe and productive workspace for all employees. Despite long-standing training legislation, sexual harassment claims continue to be a source of liability. This has caused many cities and counties to band together in risk management consortiums to share resources for regulatory compliance, legal services, insurance, and training.

The risk management consortium with the largest local membership is the Monterey Bay Area Self Insurance Authority (MBASIA), whose members include the cities of Del Rey Oaks, Gonzales, Greenfield, King City, Marina, Sand City, and Soledad. MBASIA is a joint powers authority which is a division of the California Public Entity Agency Risk Management Association. It offers insurance coverage and risk management programs.

This was important for our investigation since many of the jurisdictions we reviewed rely on MBASIA's free online training modules that feature turn-key recordkeeping systems offered through TargetSolutions, and which meet AB 1825 training requirements.

In its examination of sexual harassment training policies, practices, and recordkeeping, the Civil Grand Jury found that the County of Monterey and its incorporated cities are conducting sexual harassment training, but not always in a consistent and timely fashion that complies with governing AB 1825 regulations. Systematic recordkeeping is a key factor in successful management of training compliance.

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5 Mayberry, C. "In wake of recent cases, Peninsula cities examine sexual harassment policies." Monterey Herald. 19 May 2018. https://www.montereyherald.com/2018/05/19/in-wake-of-recent-cases-peninsula-cities-examine-sexual-harassment-policies/

The small staffs of several local cities are challenged by handling multiple roles which include providing support to their city's officials, juggling daily priorities, and also scheduling, arranging, delivering, and tracking mandated trainings. This is in addition to reminding supervisory employees to attend that training. Staff of smaller cities who have adopted a simplified training management system appear to be more effective in this role. On another note, some city staff reported that they feel they are not supported by their superiors when they attempt to enforce training requirements. This is especially true in cities with veteran supervisory employees who do not find value in sexual harassment training.

A July 2019 article[6] noted that many HR professionals view harassment training as more of a protection for employers and find no evidence to confirm that delivering training and written policies alleviates workplace harassment. This research suggests that culture change, driven by the top organization leaders, is key. Mid-managers and HR workers simply do not have the authority to enforce training compliance without active support from upper management and without a credible zero tolerance policy.

Our investigation found that HR workers in some local jurisdictions did lack authorization from their superiors to enforce training requirements, and this created compliance roadblocks when that workforce did not think it needed sexual harassment training. This was illustrated by cases of lack of follow-up for missed training or even having no one person assigned to ensure AB 1825 training compliance. In some cases, just scheduling the training was perceived as compliance.

On the other hand, several cities provide supervisory training to non-supervisory employees as well. The Civil Grand Jury found that this was more common in instances where public safety personnel or part-time recreation staff have part-time supervisory duties outside of their normal classification.

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6 Flanagan, C. "The problem with HR." The Atlantic. July 2019. https://www.theatlantic.com/magazine/archive/2019/07/hr-workplace-harrassment-metoo/590644/

Several cities with turnovers in their HR staff during the three fiscal years surveyed were missing training records. Therefore, their records were not easily accessible and were often incomplete. In most cases these cities have restarted their compliance efforts. The investigation also found some jurisdictions had tracking systems that are hard to maintain and that do not ensure retraining is completed within the mandated timeframes. Finally, some archive their records offsite or in employee files, which makes them difficult to access or use for planning and monitoring training.

Some cities could not provide copies of their training materials because they were no longer accessible from their online training provider. These on-line programs are non-compliant with 2 CCR §11024. One conclusion from this investigation is that, regardless of the training approach or modality, a jurisdiction must capture all its course materials for recordkeeping purposes and for future reference by employees if needed. This is a requirement of 2 CCR §11024.

Some of the Civil Grand Jury's generalized suggestions for achieving full AB 1825 training compliance are:

- Choose the Training Year Tracking Method for planning and tracking training. This gives all employees the same "time-block" deadline to complete training (for example, assigning a January 31 deadline, with a 30-day notice avoids the challenges of managing individual supervisory employee dues dates under the 24-month Training Method, dates that may come due throughout the year).
- Use just one authorized online vendor to ensure the most efficient method of tracking training. It provides the following: electronic recordkeeping for all required training in one place, automatic training reminders, copies of certificates of training completion, a live adviser for questions, access to training course materials required by 2 CCR §11024, and flexibility to train at the employee's convenience.
- Set and actively enforce serious and meaningful consequences for failing to train. This could include reprimands, or work performance penalties.

- Create a training tracking spreadsheet and assign it to one accountable staff person. The Civil Grand Jury found this to be the most effective means for smaller cities to manually track multiple training modes. A single worksheet can include a detailed employee roster with name, job title, date of hire, date of promotion, date of separation, and columns to track type and dates of everyone's training over three to four calendar years.
- Perform annual reviews and update, if required, harassment, discrimination, and retaliation policies. A comprehensive written AB 1825 harassment, discrimination, retaliation prevention policy should be consistent with 2 CCR §11023; the policy should contain a provision covering the employer's obligation under G.C. §12950.1 and 2 CCR §11024.

The following 13 sections are the Civil Grand Jury's summary reports for each local jurisdiction's AB 1825 supervisory employee training program.

City of Carmel-by-the-Sea

Carmel-by-the-Sea initially submitted the following records for review: a supervisory employee roster for FY 2016/17, 2017/18, and 2018/19, and written program materials for the 2018 federal Equal Employment Opportunity Commission (EEOC) classroom training (PowerPoint slide set captioned "Leading for a Respectful Environment"). Absent were a sign-in sheet for that live event, and completion certificates for any of the 2018 trainings (classroom or online). Certificates for three 2018 online trainings were later provided. The city does not use "training year" tracking to monitor training compliance. The other method allowed by DFEH regulation is to use the 24-month training Tracking Method for each employee's training attendance as the outer boundary to re-train ("individual" tracking).[7]

7 The biannual "training year" method must be premeditated: "An employer may designate a 'training year' in which it trains some or all of its supervisory employees and thereafter must again retrain these supervisors by the end of the next 'training year,' two years later. . ." See: 2 CCR 11024(b)(1)(B).

The city offers both classroom and E-learning training, directing most employees to complete classroom training in even years. The city has expressed an affinity for the classroom modality, where personal interaction is a key element, due to what they see as a stronger likelihood of information retention.

According to the city, online training is made available for supervisory promotions and new hires in order to satisfy AB 1825's requirement that training of these employees take place within six months of promotion or hire. It is also available to supervisory employees whose work schedules extend beyond normal work hours.

Most of the city's training materials were reviewed and appear to adhere to the content areas mandated by 2 CCR §11024, and the qualifications of the trainer appear to be compliant (see 2 CCR §11024(a)(10)). The city provided records of a classroom training session conducted by the EEOC Training Institute on November 15, 2018. However, it was evident that the EEOC program was not developed with specific reference to the sexual harassment/abusive conduct requirements of AB 1825 and the implementing DFEH regulations. Of note, the focal point California Government Code section cited in the material is 12940 (unlawful employment practices, in general). Section 12950.1 (sexual harassment/abusive conduct) is nowhere mentioned. The EEOC training, although four hours in length, did comply with the required time elements for proper AB 1825 training.

The city's online E-learning provider is TargetSolutions. The city supplied no written materials relating to services supplied by this provider, other than a completion certificate for one October 29, 2019 training. However, materials obtained from other jurisdictions using this provider appear to be fully compliant with the applicable administrative regulation, 2 CCR §11024. Additional employee training occurred and was documented but without AB 1825 specified materials.

The 2016 classroom training by a local law firm was provided on January 16-17 of that year. The EEOC classroom training was done on November 15, 2018. There were no AB 1825 trainings offered in-between these two.

If the city were to apply the 24-month Training Tracking Method, its compliance rate for this period would be **0%** for timely training. However, using the Training Year Tracking Method that requires training to be completed within target calendar years, the city's retraining compliance rate would have been 90%. This fact indicates that the city should adopt a written policy to use the training year tracking, even if it continues the actual practice of individual training tracking.

The supervisory employee roster supplied by the city reflects that there were people either hired or promoted to supervisory positions at some point during the 2017/18 fiscal year. The DFEH regulation (and the authorizing statute itself) provide that such supervisory employees must be given AB 1825 training within six months of their hire or promotion date. Because the city could not provide compliance data for these supervisory hires' AB 1825 training the Civil Grand Jury could only conclude that it did not meet the required standard for this training.

This investigation noted that prior to the EEOC event, the last AB 1825 training of any kind had been nearly three years earlier, in early 2016. When interviewed about this issue, the respondents only stated that there had been nobody in charge of employee training.

Apart from the January 2016 training by an outside law firm, the November 2018 EEOC classroom event, and three subsequent individual online trainings, the history of the city's compliance with AB 1825 supervisory training is undocumented. In response to a Civil Grand Jury query about how long the city had provided sexual harassment training for its workforce, the city's response was that this was unknown.

Currently, the city has arranged to do individual tracking of employee training both manually and by electronic means. An HR employee maintains an online calendar that is annotated with supervisory employees who are periodically due for re-training.[8] In addition, for instances when new hires and promotions occur, the TargetSolutions online provider maintains training data for each participant that is accessible online to the city, and allows HR staff to check-in periodically to see who is due for re-training.

When questioned as to why there was no attendance or completion paperwork (rosters or completion certificates) for the November 2018 EEOC training event, the city responded that it was assumed the provider (EEOC) would take care of those details.

The city informed the Civil Grand Jury that a written policy that addresses, wholly, or in part, AB 1825 employee training is stored on the city's shared computer drive, and thereby available to employees. While the Policy reveals a detailed, thorough, and comprehensive treatment of the subject of workplace harassment, it contains nothing whatsoever about employee training.

City of Del Rey Oaks

The Civil Grand Jury determined that, based on interviews and material made available to its investigation, the City of Del Rey Oaks' AB 1825 training was not offered or required until sometime during fiscal year 2017/18. This was surprising since the law required such training take place as early as 2005. The first AB 1825 training date recorded on the personnel roster the city provided to the Civil Grand Jury was March 2, 2018. City records show the city trained 80% of its eligible supervisory employees in 2018 with 60% of the supervisors training in March 2018, 20% training in October 2018, and the remaining 20% not training at all.

Because Del Rey Oaks did not offer AB 1825 training for supervisors until 2018, the Civil Grand Jury is unable to determine two-year training timeliness. In addition,

8 Ibid.

submitted records for newly hired and promoted supervisors showed no training for new supervisors within six months. One supervisor did receive the training, but it was three months prior to his promotion. The city's compliance with the AB 1825 standard for six-month training is **0%**.

Del Rey Oaks uses E-Learning through Apex Solutions exclusively. This is a certified AB 1825 training provider. The city uses E-learning as opposed to classroom-style training due to its small number of supervisory staff. This was particularly suitable to the city's situation where most supervisors are law enforcement employees who work irregular shifts. Del Rey Oaks will occasionally be offered space in classroom-style trainings provided by other local cities, and one supervisor did take advantage of that offer.

The city's Assistant City Clerk maintains records of training taken and training due by using a computer-based calendar system, and by accessing Apex Solutions online training records for the city's employees. The Civil Grand Jury concluded that this simple system could work well for Del Rey Oaks based on its small staff numbers. With only 15 employees, including six supervisors, AB 1825 training records are easily maintained.

A harassment policy is included as Section 3.05 in the city's out-of-date Personnel Manual, which was last revised over ten years ago. This manual does include a sexual harassment policy but lacks any of the more current forms of harassment stipulated in AB 1825 amendments. The policy also lacks AB 1825 mandates for sexual harassment prevention training of supervisory employees.

Del Rey Oaks went through a significant turn-over of management and elected officials in 2017 and 2018. Since then, the city has contracted with a consulting firm specializing in the administrative needs of local governments. This firm's scope of work focuses on Del Rey Oaks human resource systems. This is a welcome effort by the city to improve its HR system.

City of Gonzales

Gonzales has been providing AB 1825 training since 2005. All employees, not only supervisory employees, participate in this training. The city has expressed an affinity for the classroom training modality believing there is better information retention where personal interaction is a key element of the training. Online methods are employed in the event a supervisory position is filled by new hires or promotions. Gonzales uses the Training Year Tracking Method to schedule and monitor training compliance.

Gonzales is a member of the MBASIA and utilizes MBASIA's sexual harassment training resources. Therefore, cost is not an issue with respect to participation in AB 1825 training activities.

Based on the supervisory employee roster that the city initially provided, 14 listed supervisory employees were eligible for training in 2016. Eleven of those employees participated in the December 6, 2016 classroom training conducted by Concern-EAP, a provider of short-term counseling services for employees and their family members.

Submitted training materials included a PowerPoint presentation and a participant guide both captioned "Preventing Sexual Harassment." Both items make specific reference to both federal and California state law–in the case of the state, AB 1825, the original 2004 training mandate, and AB 2053, the 2015 amendment expanding coverage to include abusive conduct. Significantly, a promotional flyer prepared by Concern-EAP, and bearing its logo, states:

> This course meets the requirements of California AB 1825, Training for Supervisors, AB 2053 Abusive Conduct, SB 396 Gender Issues, & SB 1343 Training for Non-Supervisors.

Notwithstanding the foregoing, the Civil Grand Jury's review of these materials reveals significant deficiencies when matched up against the training content requirements set forth in the applicable DFEH implementing regulation, 2 CCR §11024. Specifically,

neither the PowerPoint nor participant guide materials contain any mention of the following:

- Remedies for victims of harassment
- Strategies to prevent workplace harassment
- Supervisor reporting responsibility
- The limited confidentiality of the complaint process
- Necessary corrective steps (e.g. investigation of complaint)
- How to handle situation where a supervisor is accused
- Essential elements of an anti-harassment policy and how to use it

The Civil Grand Jury finds that although the 2016 Concern-EAP training materials were non-compliant with the relevant state administrative regulation, they were represented to the city as being fully-compliant with the requirements of California law, and the city had no reason to believe otherwise. Therefore, the Civil Grand Jury concludes that the city acted in accordance with the training mandate of G.C. §12950.1.

Three newly promoted supervisory employees completed online training in 2017. The provider was EVERFI, which is a provider of online training for businesses and higher education, including AB 1825. The city could not provide EVERFI training materials, because it did not have access to them. Because of this the Civil Grand Jury could not determine whether EVERFI's online supervisory employee training complied with 2 CCR §11024, and it could not validate that the city met the AB 1825 requirements for newly promoted supervisors for that year.

The City of Gonzales provided no AB 1825 training records for 2018 and provided none for the first half of 2019 (when the final fiscal year of this review ended). The Civil Grand Jury therefore concluded that the 14 supervisory employees who had been trained in 2016 were not retrained as required in 2018. This was affirmed by information later obtained by the Civil Grand Jury, which revealed that training was not done in a timely manner due to staff changes and workload issues. This was a surprising breakdown in managing mandated training. When coupled with the inability to confirm AB 1825

training for the three supervisory employees hired in 2017, the compliance picture for the city was problematic.

After this initial review, Gonzales subsequently provided AB 1825 records for classroom and online training completed during December 2019. The December 11 classroom event was conducted by Concern-EAP. This training was attended by 15 supervisors and 41 non-supervisors. It was structured as a 2-hour event, with the first hour for all employees, and the second hour reserved for managers and supervisors only. The training content for this session was examined. It was found to be meaningfully different from the substandard material by Concern-EAP used in 2016 and appeared to be compliant with 2 CCR §11024 content requirements. Additionally, the three supervisory employees first trained in 2017 were retrained in 2019. However, this training was outside the scope of this Civil Grand Jury's inquiry.

Finally, the Civil Grand Jury noted that Gonzales has no written policy for AB 1825 sexual harassment/abusive conduct training. However, the city attorney is currently updating city policies for consideration in June 2020.

City of Greenfield

Greenfield conducts AB 1825 supervisor training under the direct supervision of the City Manager's Office. The executive assistant to the City Manager tracks compliance and facilitates AB 1825 supervisor new or biannual training for the city's approximately 19 supervisors, and for all new supervisors required to complete the training within six months. The city's sexual harassment prevention policy is provided to all employees upon hire, and the city has posted its sexual harassment prevention policy on the city's public internet.

Greenfield's compliance in AB 1825 supervisor training recordkeeping is currently marginal. During this inspection, the Civil Grand Jury determined that the recent year's records of AB 1825 training were irregular or incomplete. Although many training sessions, both on-line and classroom, had been held in recent years, the historical

records for these training events are incomplete. However, the manual entry process for tracking now has been augmented by the TargetSolutions training management system.

The Greenfield City Manager's Office facilitates AB 1825 supervisor training and tracks compliance. The executive assistant to the City Manager is the focal point for these actions. The number of supervisors who require AB 1825 training in Greenfield varies each year, both because AB 1825 supervisor training is biannual and because the number of city supervisory employees varies. Also, all new supervisors are required to complete AB 1825 training within six months of hire.

The increasingly detailed AB 1825 requirements suggest that even with the improved TargetSolutions records management system, compliant AB 1825 recordkeeping will remain problematic for the city if this task remains as an additional duty for the City Manager's Office.

The city's sexual harassment prevention policy is posted on the city's website. That policy, "Harassment Policy and Complaint Procedure," is incorporated by reference as Attachment B to Rule 17, of Section 7 to the city's Personnel Rules and Regulations (adopted December 1993). This policy is provided to all employees upon hire. The policy has no notations to indicate if, or when, this policy was ever updated. It does not specify or reference AB 1825 or any supervisor-specific training responsibilities.

The city training records provided to the Civil Grand Jury for this investigation did not identify which attendees were supervisors (for AB 1825 purposes). However, interviewees estimated that there was an average of 12 supervisors on the city payroll at any one time. Based on city rosters, position titles, and training records that could be cross referenced by the Civil Grand Jury, the number of supervisors appears to average about 19.

The Civil Grand Jury found that much of the city's sexual harassment prevention training is conducted with supervisors and employees attending together. This was

documented for sexual harassment prevention (AB 1825) and anti-abusive conduct (AB 2053) training sessions in both 2017 and 2019.

As noted above, since at least July of 2019, the city has used TargetSolutions for online delivery of individual AB 1825 training, and to track the training status of supervisory and other employees. The city also conducts in-person classroom AB 1825 training and has used both the City Attorney and outside firms as providers. The training course materials reviewed by the Civil Grand Jury were current or compliant with state requirements at the time of presentation. In accordance with state requirements, the city also maintains some training rosters, and some training certificates. However, the city did not provide any requested training records or material for FY 2017/18, one of the three years (FY 2016/17, FY2017/18, FY2018/19) of AB 1825 sexual harassment prevention training that was investigated. Based on interviews conducted by the Civil Grand Jury, some sexual harassment prevention training was conducted in FY2017/18, but the Civil Grand Jury was not able to verify any training during that period.

Greenfield's compliance in tracking AB 1825 supervisor training is currently marginal. As noted above, since at least July 2019, the city was able to produce some required tracking data for several, but not all, requested fiscal years, and it could not present complete AB 1825 training records for any fiscal year. Based on records made available to the Civil Grand Jury, and even accepting the unverifiable assumption provided by the city that session rosters submitted to the Civil Grand Jury likely represented AB 1825 supervisor training, the city's recorded AB 1825 supervisor training rates appear low.

AB 1825 Training Fiscal Year *	Total Supervisors Trained (AB 1825) %	Total Supervisors for FY
FY 2016/17	10 (53%)	19
FY 2017/18	No records	20
FY 2018/19	7 (37%)	19
* based on materials provided by City of Greenfield		

At least one person interviewed by the Civil Grand Jury noted that many supervisory personnel had completed the FY 2018/19 AB 1825 training, but records had not been

updated at the time of this investigation. One training-due roster was provided with four supervisors' names to show that they were in the process of completing AB 1825 training. The Civil Grand Jury could not verify completion of that training but noted that even with an additional four supervisors added to the "completed" numbers, the overall compliance rate for the City of Greenfield for FY 2018/19 would be **58%**. This percentage could be higher if AB 1825 supervisor training had been conducted in FY 2017/18. Those supervisors trained in the prior year would still be qualified for the next year's training period. However, the city had no records to document any training attesting to this situation.

The Civil Grand Jury also determined that, according to all records provided by the city, a total of nine current supervisory personnel had not taken, nor are there records of them taking, any AB 1825 training during the three fiscal years reviewed in this investigation. That represents 47% of the current supervisory staff.

On a positive note, the Civil Grand Jury recognized that the city is changing its recordkeeping and training tracking system. Since July 2019, the manual entry process of names, dates and periodic spreadsheet updates have been augmented by the TargetSolutions training management records system. This is a positive measure, and together with continued focus by the city's leadership, Greenfield's training compliance levels may reach closer to the state-required 100%.

Yet, due to the increasingly detailed AB 1825 training and recordkeeping requirements, and the high volume of administrative functions that is managed by the City Manager's Office, the Civil Grand Jury fears that even with the limited population of supervisors in the city and with improved TargetSolutions learning management system records processes, compliant AB 1825 recordkeeping will remain problematic if it remains an additional duty located in the City Manager's Office.

King City

King City's sexual harassment prevention training for supervisors and managers is provided exclusively through a *ThinkHR* online AB 1825 training course. This E-learning training—from method, trainer qualifications, training content, access to training records, certificates of completion, and access to live advisers—appears to be fully compliant with the applicable administrative regulation 2 CCR §11024.

During the three fiscal years from July 1, 2016 through June 30, 2019, all but two of King City's supervisory employees completed timely AB 1825 training. Both of those employees had taken a leave of absence. One did not return to work, and the other completed timely training upon return from the leave. After a follow-up records review, the Civil Grand Jury concluded that King City has maintained 100% compliance to AB 1825 for the past three fiscal years.

For the fiscal periods reviewed, King City hired or promoted two supervisory employees and one contract supervisor. All three received AB 1825 training within six months of their date of hire or promotion. These training records demonstrate a **100%** compliance level for training of new and promoted supervisory employees.

King City uses the Training Year Tracking Method to track when training is due. HR calendars individual training due dates and notifies those supervisors whose training is due prior to their two-year anniversary. By choosing to focus on AB 1825 training every other year (odd years), King City has been able to simplify recordkeeping and achieve 100% compliance with training. Supervisory employees who are hired or promoted and receive their initial six-month training in even years, train again the following calendar year (in odd years) to maintain a streamlined biannual tracking system.

Because King City tracks training for 18 supervisory employees and contractors, their training compliance system is handled with a simple Excel spreadsheet and Outlook calendar reminders. Using a single training mode, training records are easily tracked and are well-maintained. HR also implements a routine of personal follow-up to ensure

untrained supervisors train before the year end. Training expectations are supported by the City Manager, who promotes timely training.

King City's Policy No. 10, titled, *Harassment, Discrimination, and Retaliation,* is posted on the city's public website. Subsection 7 of the policy, titled, *Training*, covers the necessary requirements of AB 1825. All employees receive a copy of this policy as a part of their initial orientation with the city and sign an acknowledgement of receipt. The policy is deemed fully compliant with current 2 CCR §11024 regulations.

All elements of King City's AB 1825 supervisory training program comply with the 2 CCR §11024 regulations. King City is to be commended for this excellent record.

City of Marina

Marina takes advantage of its MBASIA membership to access its AB 1825-compliant training programs. The membership provides free online training through TargetSolutions, and a fee-for-service classroom training option with a local law firm.

E-learning with TargetSolutions is the primary method for AB 1825 training in Marina. The city offered live classroom training twice: once in 2013 and again during 2019. HR staff reported employees prefer this training mode, because it is interactive, allowing employees to ask specific questions. However, classroom training is dependent on available budget allocations.

The Civil Grand Jury conducted a review of the PowerPoint presentation and handout for training titled "Preventing Harassment, Discriminations and Retaliation." The course appears to be fully compliant with applicable administrative regulation 2 CCR §11024. It includes qualified trainers, certificates of completion, training sign-in sheets, and training data report capability.

Thirty-five supervisory employees were eligible for supervisory training during FY 2016/17, FY 2017/18, and FY 2018/19. Thirty employees had timely training. One

employee missed 2017 training. One employee, a senior city official, missed both 2017 and 2019 trainings. Two employees had late new hire/promoted training that coincided with training due in 2019. One employee completed non-supervisory training in 2019 but previously had supervisory training in 2017. Marina demonstrated **85.7%** timely supervisory training.

Seven new supervisors were hired or promoted between FY 2016/17, 2017/18, and 2018/19. Five out of seven received timely supervisory training within the prescribed six-month period. The city had a **71.4%** timely training compliance record for the period. One staff member has responsibility for the city's HR function, which includes AB 1825 compliance and program management. The HR staff uses the 24-MonthTracking Method in odd year cycles. Marina staff is effective at assigning training to employees and giving them deadlines of up to one month to encourage timely training. However, a break in online training occurred in 2018 when TargetSolutions went offline to update their materials to include new California regulations. This training inaccessibility may have impacted timely training for two employees who had training due in 2018.

The city's HR maintains AB 1825 training records for its management groups using the online TargetSolutions roster which can be manually updated for classroom training based on completed sign-in sheets. Public safety groups, such as police and fire, primarily use TargetSolutions online training and manage training of their own personnel in a timely fashion. Marina appears to have well-functioning recordkeeping systems on these two fronts.

For new hires, the city provides these employees with a written sexual harassment policy and a brochure from the Department of Fair Employment and Housing, and has the employees sign an acknowledgement of receipt for the policy. It is a stand-alone harassment policy document, titled *Policy Against Sexual Harassment*, which is missing a reference to certain protected classes of employees with respect to gender, gender identity, gender expression, marital status, genetic characteristics, and military/veteran

status. It also lacks a section on training mandated by 2 CCR §11024 regulations. The policy is therefore marginally compliant with AB 1825 and AB 2053.

All employees are given a copy of this stand-alone policy, as part of their initial orientation, as well as a brochure from the California Department of Fair Employment and Housing concerning sexual harassment prevention training. The city is in the process of updating its *Personnel Policy Manual*, which was adopted in 1995 and last updated in 1999.

City of Monterey

Monterey prefers using classroom training to meet AB 1825 requirements. Classroom training in 2019 was provided by a Human Resources employee who was formerly an attorney and certified trainer with a large local law firm that specializes in AB 1825 training. Copies of the training materials, entitled “Workplace Harassment and Bullying Prevention Training,” were reviewed. The State Laws section is missing any specific reference to AB 1825 regulation governing 2-year and 6-month training requirements for supervisory employees.

For its 2018 classroom training, Monterey selected a two-hour course facilitated by the federal Equal Employment Opportunity Commission’s (EEOC) Training Instituted, entitled “Working in a Respectful Environment.” The Monterey workshop materials that were submitted for the EEOC course only covered the two-hour training attended by all employees. Those training materials did cover California Laws and Regulations, including §12950.1 California Training Requirements for AB 1825. However, the duties of a supervisor were not covered. The supervisory employees had extended training of one additional hour. No program materials were submitted for that portion of the training, so the Civil Grand Jury is unable to ascertain the compliance level of the supervisory portion of the EEOC training program.

Furthermore, the focus of the EEOC training workshop was creating and maintaining a “respectful workplace,” not sexual harassment and abusive conduct prevention. The

§12950.1 content is only dealt with in the second of six modules for the two-hour session. The Civil Grand Jury concluded a majority of the training concerned other topics, which did not satisfy the two-hour sexual harassment/abusive conduct training requirements for supervisors. Therefore, this training program was deemed deficient for AB 1825 compliance purposes.

E-Learning through TargetSolutions is used for employees unable to attend classroom training due to scheduling issues (usually public safety personnel), for newly promoted supervisors, and for supervisors who were found to need additional training based on decisions made by their departments. The TargetSolutions' AB 1825 E-Learning training program is fully compliant with AB 1825 mandates. It provides certificates of completion and training data for each employee that is accessible online by the employer.

In order to determine if the City's supervisory employees received AB 1825 training within six months of hire or promotion and every two years thereafter, the Civil Grand Jury requested Monterey provide a list of employees in supervisory positions during the period of fiscal years 2016/17, 2017/18, and 2018/19. A handwritten comment on the top of the list provided by the city stated, "List of supervisors 2018/2019." This list was inadequate for the Civil Grand Jury's purposes as it may not have included supervisors who had been hired, promoted, or separated during the two prior fiscal years.

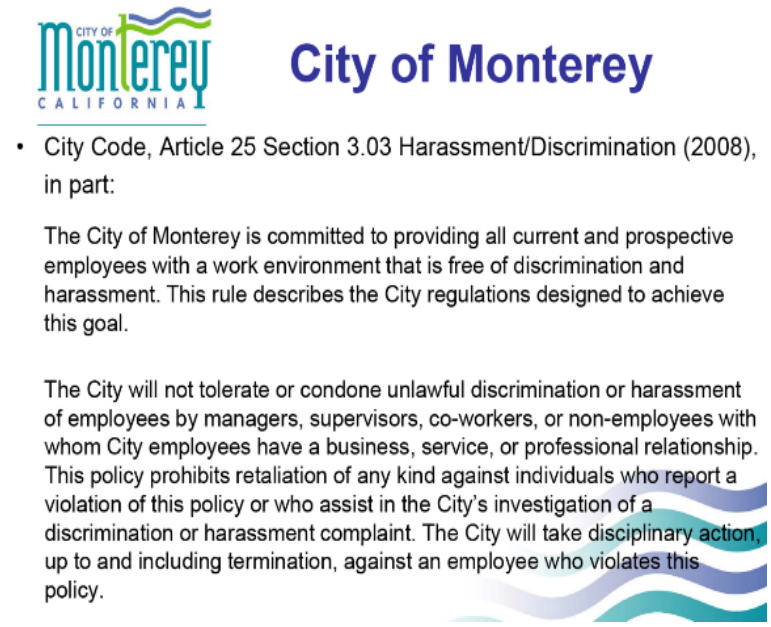
Monterey was subsequently asked to provide a list of supervisors employed during the three fiscal years of 2016 through 2019 that included their hire, promotion, and if applicable, separation dates. The city responded that their database could not provide the requested information because the database's reporting capabilities were limited to currently active supervisors. This led the Civil Grand Jury to conclude that the "Active Supervisors List" that was submitted and dated October 30, 2019 only included supervisory personnel on payroll at that time and not in prior years and it did not include former positions that the employee may have held with the city.

Therefore, the Civil Grand Jury concluded that if a supervisor was initially hired as a non-supervisory employee and later promoted to a supervisory position, Monterey's Human Resources Department could not track the employee's date of promotion or what former position classifications that employee may have held. In addition, Monterey was unable to provide names of employees who received AB 1825 training during FY 2016/17. The city reported to the Civil Grand Jury that they did not have a list of supervisors on payroll for that period.

This failing of Monterey's personnel tracking system results in an inability to determine if current supervisory employees had received their required AB 1825 training within six months of hire or promotion and then every two years thereafter. Because of these deficiencies in Monterey's tracking system, the Civil Grand Jury was unable to determine if the City of Monterey is compliant with AB 1825's training mandates. Because training timeliness cannot be verified, the Civil Grand Jury determined that Monterey's compliance with AB 1825 supervisory employee training requirements was **0%** for supervisory employee retraining and **0%** for new and promoted supervisor training.

Monterey reports it is creating a new system in 2020 that will capture all employee classifications (supervisory or non-supervisory) and whether each employee has completed mandated AB 1825 training.

Monterey's sexual harassment policy, titled *Harassment/Discrimination/ Retaliation/Abusive Conduct/Bullying Policy* is contained in city code 25-3.03. The ordinance was originally adopted in 2008 and amended on March 20, 2018. While the policy accurately reflects the conduct prohibitions in 2 CCR §11023, it does not include the mandated employee training requirements in 2 CCR §11024. Below is a PowerPoint slide illustrating the city's policy and used in Monterey's 2019 classroom trainings.



City of Pacific Grove

The city of Pacific Grove exclusively trained its supervisory employees with classroom sessions during FY 2016/17, FY 2017/18, and FY 2018/19. The city prefers classroom-style training as the best method for fulfilling the interactive requirement of 2 CCR §11024 regulations, and it is more focused to organizational culture rather than to the liability aspects of the regulation.

The city contracts for the training with DeLay & Laredo, Attorneys at Law, whose partner also serves under a separate contract as Pacific Grove's city attorney. The firm is located in Pacific Grove and is a qualified AB 1825 training provider.

The city's AB 1825 classroom training course titled, *Sexual Harassment Prevention – A Guide for Elected Officials & Senior Staff – AB 1825*, is offered throughout each calendar year. AB 1825 supervisory training content appears to be fully compliant with the applicable administrative regulation 2 CCR §11024. It provides training sign-in sheets for each employee. Certificates of completion are not issued.

The classroom schedule included two training dates in 2017, six training dates in 2018, and two training dates in 2019 (one of which was held after FY ending June 30, 2019).

Staff in the city's HR Department changed in 2016. The newer employees were unable to access AB 1825 training records for 2016 and prior years. Therefore, the city's current training records start in 2017. Forty-five supervisory employees were eligible for training during the three fiscal years reviewed. Thirty-four trained timely which equated to **75.5%** timely training. Five employees who were trained in 2018 did not have training that was verifiable as timely because of missing 2016 training records. If 2016 training could be confirmed for these five employees, the timely training rate would increase to 80%.

Fifteen new or promoted supervisory employees, plus one other new hire who had training due by July 20, 2016, were subject to the mandated six-month training for new supervisors. Four had confirmed timely training, and two employees' records confirmed late training. For the other ten employees, timely training could not be determined—because nine of those employees were missing a date of hire or promotion, and one was missing 2016 training records. So, out of 16 eligible new or promoted supervisory employees, timely training was confirmed for four based on the available training records, resulting in a **25%** training compliance level.

Pacific Grove's two most significant training challenges deal with employees who work outside normal business hours, such as public safety officers, and new and promoted supervisory employees who are required to train within six months. HR occasionally

offers online options as needed in special cases. No record of online training was received for the period of the Civil Grand Jury ’s review.

Two supervisory employees were trained more often than the two-year statutory requirement. The city also trained 63 non-supervisory employees in the same sessions as supervisors and managers in order to include staff who may have lead duties.

Given its small HR staff, Pacific Grove should consider streamlining the AB 1825 training system to concentrate training in even or odd years to simplify recordkeeping and improve timely training for its supervisory employees. Training records were maintained on an Excel spreadsheet that has tabs for each training calendar year. It included the following: employee name, assignment title, training completion date, training provider, and comments such as new hire, promoted, separated.

The city did revise its training tracking system into a single spreadsheet for the Civil Grand Jury, which allows an easier means of viewing training compliance over several calendar years.

The city’s harassment policy is posted on its public website within the *Administrative Policies and Procedures Manual*, which was last updated on February 7, 2017. Found in Sections 100.080–100.110, titled *Harassment, Discrimination, and Retaliation Prevention Policy and Complaint Procedure*, the policy discusses harassment and abusive conduct, protected classes, retaliation, reporting, and complaint procedure consistent with 2 CCR §11023; it does not contain a provision covering the employer’s training obligation under G.C. §12950.1 and 2 CCR §11024.

Pacific Grove’s *Employee Handbook*, which is also posted on the city’s website, is dated August 1, 2016. Review of the handbook showed it is missing all reference to a policy pertaining to sexual harassment or abusive behavior required by 2 CCR §11023. Therefore, it is assumed employees sign a required acknowledgement of receipt of the

handbook in their new-hire orientation, but it is deficient in the acknowledgement of a legally required receipt of the harassment, discrimination, and retaliation policy.

City of Salinas

The city of Salinas AB 1825 supervisor training is coordinated by the Human Resources (HR) Department. New employees are provided with the *Employee Guidelines on Preventing Sexual Harassment* including the (2017) Salinas Administrative Memorandum *Addressing Discrimination and Harassment Prevention*. These documents are also available on the city's intranet and can be accessed at the HR office.

Salinas' approach toward AB 1825 supervisor training compliance monitoring has been evolving in recent years. In 2017 the City's municipal financial and personnel functions support software package, New World ERP, was extended to HR training tracking to automate tracking of training deadlines and create an archive of historical training records.

Based on the materials provided to the Civil Grand Jury during this investigation, the city maintains complete AB 1825 course materials as well as some sign in rosters, some certificates of training, and additional AB 1825 reference materials used to organize or conduct the courses. While selected records of training data were missing, the overall organization of AB 1825 supervisor training program records were clear and well-managed.

Supervisors must take AB 1825 training biannually or within six months of assuming a supervisory position. Supervisor participation for the years reviewed by the Civil Grand Jury fell short of state requirements. In FY 2018/19 for example, only **45%** of the City's supervisory employees were trained or qualified by prior training in AB 1825 sexual harassment prevention. Also, an issue is the city's approach for tracking six-month new supervisor AB 1825 training. Currently, the city manually tracks this requirement. There is no automated method to link a new supervisor's hire or promotion to the AB 1825

supervisor training requirement. The use of the New World ERP system to track AB 1825 training occurrences and due dates is a good improvement to the city's process for that training. TargetSolutions online training, however, still must be manually cross loaded into the New World ERP system.

Overall, the Civil Grand Jury noted that the management and direct execution of the AB 1825 program was professionally managed and focused on delivering city-centric training that was relevant to its supervisors and employees. Our assessment was that improving supervisor compliance and continuing to develop more automated records keeping systems will make Salinas' current good system even better. The city's AB 1825 supervisor training is coordinated by the Human Resources (HR) Department. The HR Director has three employees that can assist with all AB 1825 training-related processes.

According to personnel interviewed by the Civil Grand Jury, prior to 2017 the city generally conducted a biannual sexual harassment prevention classroom training class for supervisors on pace with the AB 1825 (and prior) requirements. In 2017, the city started presenting the AB 1825 course annually and, starting in 2020, has begun presenting quarterly sessions for AB 1825.

Salinas has a strong preference for classroom/in-person AB 1825 supervisor training. The Civil Grand Jury was told that city leadership believes that the hands-on sessions provide more direct contact, greater interaction, and allow the course to be tailored to city-specific conditions and situations. The City Attorney and HR section AB 1825-instruction qualified personnel are the main trainers for this course. The city also has availed itself of law firms and even the National League of City's AB 1825 courses, on an opportunistic basis. Online training is made available by exception. TargetSolutions was mentioned as the current main provider of the city's online AB 1825 training. Online instruction is used primarily for catch-up or if a new supervisor cannot meet the six-month requirement for AB 1825 training after being hired or promoted into position.

The city provided complete course materials to the Civil Grand Jury and stated that these materials are available (per state requirement) if sought by employees. In addition to course materials, the city-maintained sign in rosters, some certificates of training, and additional AB 1825 reference materials that were used to organize or conduct the courses. While selected records of training or completion were missing, the overall organization of AB 1825 supervisor training records and materials was clear, logical, and well-documented.

The well-organized, comprehensive approach that the HR department applies to AB 1825 supervisor training is not reflected in supervisor participation rates. A summary of supervisor participation for the years reviewed by the Civil Grand Jury provided the following results:

AB 1825 Training Fiscal Year *	Nr. of Supervisors Trained or Qualified (%)	FY Supervisor Count
FY 2016/17	66 (47%)	139
FY 2017/18	91 (64%)	137
FY 2018/19	52 (45%)	116
* Data from City of Salinas		

Supervisors must take AB 1825 training every two years, based on the Training Year Tracking Method or within six months of assuming a supervisory position. For FY 2017/18 and FY 2018/19 the above numbers reflect the combined total of actual AB 1825 training, plus supervisors who already taken AB 1825 training within the past 24 months (or within two training years). For example, in FY 2018/19, the number of supervisors who took AB 1825 training, according to records provided to the Civil Grand Jury, was 21 personnel. In addition, 31 supervisors were still qualified by prior AB 1825 training (for two years). This meant that 52, or 44.8%, of the city's supervisors were compliant with the state requirements for timely training during the fiscal year period. It also meant that 64 supervisors were out of phase and not compliant. The Civil Grand Jury determined that of those non-compliant supervisors, 41 or 35% of *all* supervisors for FY2018/19 had not done any AB 1825 training for the past three years. Interviewees did caveat the data provided above by noting that in some cases, rosters of supervisors

provided to the Civil Grand Jury reflected a managers group, or a supervisors group. This meant that in some cases, some individuals on the list may not be supervisors. However, the Civil Grand Jury was not able to parse all lists to exclude non-supervisory personnel included in the requested supervisors' rosters.

Investigation into the reasons for suboptimal compliance revealed several conditions. First, the new tracking system (New World ERP) has been implemented backward from the newest employees/supervisors. This meant that as a new hire is processed or "on-boarded," that employee (if a supervisor) is given a target date for AB 1825 training in the New World system. Other supervisors have been added into the system working back among all employees. Periodic checks of the New World ERP will allow HR personnel to know who is due for the next AB 1825 sessions–if they have been entered into the system. The second reason that the Civil Grand Jury determined that compliance was an issue is supervisor personal responsibility.

This investigation noted several examples of city HR notices for AB 1825 training that had been sent to all listed supervisors. The Civil Grand Jury was even told that "global" notices of upcoming training have been posted on occasion. This suggested that a certain percentage of supervisors simply don't attend.

When questioned on this point, city personnel provided a different perspective. In the past, shift work, special assignments, or duty away from the city's training classrooms were reasons for supervisors to miss the once-each-two years (pre-2017), or the once-a-year (2017-2020) AB 1825 training. Those supervisors who missed should have sought out the online programs that the city makes available. However, waiting for the next class appeared to be a default approach for many supervisors. Starting in 2020, the city started quarterly AB 1825 supervisor training. Interviewees stated that this approach is a method that the city will use to raise its compliance rates to better levels.

The use of the New World ERP system to track AB 1825 training occurrences and due dates is a good improvement to the city's program. However, this system still requires

manual operation by HR staff to determine the population of supervisors due for training prior to any given class. This is a point of potential failure in working to achieve compliance. So, too, this investigation did not show how the TargetSolutions online training is integrated into the New World system. This appears be a manual action required between the two systems. That is another point where accountability and tracking can breakdown.

Finally, in spite of the challenges the city faces in raising supervisor compliance rates, the Civil Grand Jury noted that the management and direct execution of the AB 1825 program was professionally executed and tightly focused on delivering city-centric training that was relevant to its supervisors and employees. Continuing the current course, and taking a macro look at the overall status and results for the city's AB 1825 supervisor training, are the next steps. The Civil Grand Jury determined that this approach has not been routinely incorporated in the otherwise crisp and efficient AB 1825 supervisor training program.

Sand City

Sand City has been providing sexual harassment prevention training for its workforce at least as far back as the inception of the AB 1825 requirements (2005). The city has expressed an affinity for the online modality because it is thought more convenient for employees. The city has used the online provider AJ Novick Group, Inc. for many years. Cost is not an issue with respect to participation in AB 1825 training activities, because Sand City is an MBASIA member with access to a variety of educational functions, including sexual harassment prevention trainings.

The city did not submit requested training materials relevant to AJ Novick Group's training. The AJ Novick website advertises compliance with California anti-harassment law; in particular, AB 1825, AB 2053, SB 396, and SB 1343. The online course is timed at "at least two hours to complete."

As for content, the course curriculum includes information on relevant state and federal law, gender/sexual orientation harassment, remedies available to harassment victims, and practical examples. It is asserted that the training materials are “designed by experts in sexual harassment and corporate training.”

The website claims to have an interactive modality because of the presence of “periodic quizzes.” The provider states that it retains copies of written and recorded training materials. Thus, the material requested from Sand City likely could have been supplied to the Civil Grand Jury had the city sought it.

Therefore, it appears that the online supervisory employee training provided by Sand City likely substantially conformed to the requirements of 2 CCR §11024.

The city does not use the Training Year Tracking Method to monitor training compliance. The other method allowed by DFEH regulation is the 24-Month Tracking Method which tracks the dates of individual employees training, requiring them to be retrained within 24 months of their most recent training.[9]

The city-prepared compilations contain the names of nine supervisory employees. Two of them appeared as employees for only one of the subject years: One of the supervisors—whose date of hire was November 5, 2005—separated on March 31, 2017. It is unknown when he might have done any prior training, so he is dropped from the assessment because it is outside the scope of this review. The other supervisor—whose date of hire was November 21, 2018, separated on June 30, 2019. He did the training the day after he was hired, November 22, 2018.

Of the remaining seven under the 24-Month Tracking Method, one who trained on August 22, 2017 was due for retraining no later than August 22, 2019. This supervisor re-trained on August 27, 2019, and therefore was not in compliance. Another supervisor

9 Ibid.

who trained on October 3, 2017 was due for retraining no later than October 3, 2019, but re-trained on September 3, 2019, and therefore is compliant.

Two supervisors who trained on October 28, 2017, and were due for retraining no later than October 28, 2019, were re-trained on September 15, 2019 and November 2, 2019, respectively; therefore, there was one within compliance and one was not. Three other supervisors received timely re-training prior to the end of FY 2018/19.

Accordingly, six of the eight eligible supervisors retrained in a timely manner**.** The other two were less than a week past due when they retrained. The compliance rate under this method is **75%**. In contrast, the compliance rate under the Training Year Tracking Method would assume eight out of eight eligible employees took retraining in a timely manner, which would result in 100% compliance.

One new supervisor was hired during the three-year period of review and was required to train within six months. As indicated above, the employee's date of hire was November 21, 2018, and the training was completed on November 22, 2018, the day after he was put on the payroll. Therefore, Sand City's training compliance rate for new supervisors is **100%.**

A harassment policy is included in the city's *Personnel Manual* and Sand City noted that its written policy regarding AB 1825 training is in this document. A review of section 2.03 of the *Personnel Manual* reveals a standard workplace anti-harassment policy. The only part of section 2.03 that in any way touches on the topic of employee training is the last sentence of subsection A, *Statement of Intent*, which reads as follows:

> In keeping with our commitment to a harassment-free environment, The City will comply with all applicable rules and regulations regarding the training of employees in supervisory positions.

Sand City has assigned an administrative staff member to maintain training records, which are kept in a binder at City Hall. This staff member also coordinates training reminders. The city is effectively managing AB 1825 training for their supervisory employees.

City of Seaside

The city of Seaside has offered AB 1825 supervisory training to its employees for many years. The city recognizes employees have different learning styles, so their workforce is offered flexible training options from online, classroom, and webinar courses. Flexibility, however, has created a complex recordkeeping challenge for staff.

Seaside facilitates a wide range of training opportunities throughout the year. Their training providers are well-qualified, and materials are comprehensive and compliant. Written policies are fully compliant and distributed in person, on the city's website, at trainings, and available in the resource library. Classroom training with California Joint Powers Insurance Authority (CJPIA) is preferred by most employees, but online training is necessary for employees such as police and fire personnel who have unique schedules and cannot attend a daytime training session.

E-learning is handled with the TargetSolutions AB 1825 supervisory training program, *Smart Workplaces: Sexual Harassment Prevention for Office Managers & Supervisors, California, AB 1825* and appears to be fully compliant with the applicable administrative regulation 2 CCR §11024. TargetSolutions provides certificates of completion and reports of training data for each employee that is accessible online to the employer.

Seaside has access to classroom training through its membership in the CJPIA. The Civil Grand Jury conducted a review of training handouts prepared by CJPIA titled, *Workplace Harassment Training*, and dated April 10, 2018, January 23, 2019, and January 24, 2019. The courses appear to be fully compliant with applicable administrative regulation 2 CCR §11024.

Webinar training was provided by Burke, Williams & Sorenson LLP, a Los Angeles-based law firm serving public agencies and private business entities across California. Their webinar program was titled, *Not Your Average Harassment Training*. Training materials were not provided for review, so AB 1825 compliance cannot be confirmed. The website does establish the two trainers as qualified employment law attorneys. A submitted sign-in sheet and certificates indicate a single training date of October 25, 2017.

Employees are responsible for registering for their AB 1825 training, and they are not limited to how often they train. They can view their training records on the TargetSolutions dashboard. The Fire and Police Departments handle their own staff's training reminders apart from the HR Department. HR staff sets up credentialing reminders within the TargetSolutions system, which is not fail safe. Some employees train more than needed, while others ignore training reminders or delay training past the deadline. Credentialing reminders drop off after a certain time period, which leads to late and uncompleted training.

The submitted supervisory roster combined records for FY 2016/17, FY 2017/18, FY 2018/19 and was well-organized. Training records, such as sign-in sheets and certificates of completion, were a piecemeal submission of separate documents that were matched to the submitted employee roster. Several listed supervisors with gaps in training were short-term, interim supervisors who were excluded from the compliance analysis.

Gathering the training records for nearly 100 employees and alternately training between the three training methods presented a challenge because some training records are archived off-site. Although they are training their employees, Seaside does not have a systematic way to track AB 1825 training from year-to-year. Eighty-seven supervisory employees were eligible for supervisory training during FY 2016/17, FY 2017/18, and FY 2018/19. Fifty-five employees had timely training. Fourteen employees had late training, beyond two calendar years. Six employees completed non-supervisory

training only. Twelve employees had no training records. Seaside demonstrated **63%** timely supervisory training.

Twenty-four new supervisors were hired or promoted between FY 2016/17, 2017/18, and 2018/19. One new supervisory employee who was hired in Quarter two of 2016 had new hire training due in FY 2016/17 and is included in the timely training calculation. Nine of 25 new supervisors received timely supervisory training within the prescribed six-month period. The city had a **36%** timely training compliance record for the period.

Twenty-one supervisory employees trained more often than required. The city does not monitor or limit the number of employee trainings.

Thirty-nine non-supervisory employees completed 48 supervisory training sessions. Seaside has firefighters and recreation employees who may work out of class and have lead employee duties, where they are called to supervise others in a flexible capacity. Erring on the side of caution, Seaside should continue to encourage or require all employees with occasional lead responsibilities to complete supervisory training for AB 1825 purposes as a risk prevention measure.

Seaside has three Human Resources staff who share HR duties. No one person is responsible for maintaining AB 1825 training records. AB 1825 records are not accessible in one place. Recordkeeping and timely training are the major problems Seaside contends with in an otherwise well-functioning AB 1825 training program.

A harassment policy document, entitled *Policy Against Harassment, Discrimination, and Retaliation*, is included on the city website under *Human Resources Policies and Procedures*, which was last updated in 2018. The policy is compliant with AB 1825, AB 2053, AB 1661 (pertaining to elected officials). It requires supervisory employees be trained on preventing sexual harassment and abusive conduct in the workplace every two years. In addition, it requires that all persons appointed or promoted to supervisory

positions be trained within six months of appointment or promotion from a non-supervisory position.

All employees are given a copy of the policy as part of their initial orientation and are to receive a copy in conjunction with any training they attend. Supervisory employees are required to sign an acknowledgement of receipt of the *Policy Against Harassment, Discrimination, and Retaliation* at their time of hire.

City of Soledad

During the three fiscal years from July 1, 2016 through June 30, 2019, the city of Soledad had an average of 19 supervisory employees on payroll. Except for one supervisor who was on leave in 2019, every supervisor in the city received timely AB 1825 training. The Civil Grand Jury concluded that Soledad demonstrated **100%** compliance with AB 1825 training regulations.

The city hired four new or promoted supervisors during the period of review. All four supervisory employees received AB 1825 training within six months of hire, achieving a **100%** rate of compliance.

E-learning is the only method the city uses for AB 1825 training. It is provided online through TargetSolutions. TargetSolutions' supervisory training program appears to be fully compliant with 2 CCR §11024. It provides certificates of completion and training data for each employee that is accessible online to the employer.

The city uses the Training Year Tracking Method to track when training is due. In early January of each year, the city's Human Resources Department notifies those supervisors whose training is due in that year and informs them that they must complete the training by January 30. All newly hired or promoted supervisors receive AB 1825 training within 30 days of hire, a full five months earlier than the law requires.

Because Soledad averages just 19 supervisory employees on their payroll at any one time, their training compliance system is a simple Excel spreadsheet. By choosing only one month out of each year (January) to focus on AB 1825 training, Soledad has been able to achieve **100%** compliance with training new supervisors within the required six months and other supervisors every two calendar years.

A policy titled, *Policy Against Harassment, Discrimination, and Retaliation* is included as Section 4 in the city's *Personnel Rules and Regulations Manual* adopted in September 2016 and available on the city's public website. Subsection 4.04 of the policy, titled *Training and Policy Dissemination,* spells out all requirements of AB 1825.

Soledad is to be commended for this excellent compliance record.

County of Monterey

Monterey County conducts a high volume of AB 1825 supervisor training. This training is managed by the Monterey County Civil Rights Office (MCCRO). MCCRO has a robust AB 1825 training program that is centered on online training delivered by EVERFI corporation and augmented by classroom/in-person training led or monitored by qualified professionals from MCCRO.

An active but labor-intensive outreach program has been developed by MCCRO to support department managers and to coordinate with each department's learning management specialists (LMSs). This network is necessary for MCCRO to help ensure that Monterey County government delivers a model work environment and meets all AB 1825 and other Civil Rights training requirements. However, some AB 1825 training is not documented accurately in records, and the training tracking system, at least for AB 1825, is problematic in that it still reflects the transition among three different online learning systems used during the past four years. This is an area that requires more attention and improvement.

Because of MCCRO's limited access to certain HR data, it is not able to routinely audit compliance with all AB 1825 supervisor training rules. However, MCCRO works actively with department heads and department LMSs to promote compliance with AB 1825 regulations.

While MCCRO is responsible for AB 1825, this is just one portion of the large portfolio managed by this small office. MCCRO promotes a spirit for personnel to "respect civil rights, provide equal opportunity for all, and pursue equity in all operations by developing a culture of diversity and inclusion" in the Monterey County government and for the Monterey County community.

MCCRO prefers delivering AB 1825 training primarily via EVERFI's online training because County government is large and spread out among many facilities. Online training is augmented by MCCRO's classroom/in-person trainings. The Civil Grand Jury investigation determined that MCCRO leadership is well-informed of all changes and requirements for AB 1825 training, and they review and validate all training delivered by its online vendor and by MCCRO staff. MCCRO manages and audits all training requirements in their area of responsibility—including AB 1825, via close and ongoing contacts with the LMSs who are placed in each County department. LMSs are two-way conduits for information and situational awareness for MCCRO issues, including AB 1825.

Starting this year, MCCRO began publishing a monthly e-note or update that is tailored for each department. This periodical provides both relevant information and overviews of that department's compliance with requirements like AB 1825. Concurrent with the MCCRO e-note is a more detailed list for each LMS. The Civil Grand Jury was told that this is a two-way process where the LMSs work closely with MCCRO to ensure each department's compliance. Because of MCCRO's limited access to certain HR personnel data, MCCRO must coordinate with LMSs for data on supervisor training and changes in supervisor status—changes that would require additional AB 1825 training. While AB 1825 requires newly hired or promoted supervisors to receive AB 1825 training within

six months, Monterey County requires new supervisors to complete AB 1825 training within 60 days of hire/promotion.

In recent years, MCCRO has migrated, in part or full, among three different online training networks. Currently, MCCRO uses the County's Learning Development System (LEARN/LDS) but retains EVERFI for its preferred quality of AB 1825 modules. MCCRO interviewees noted that EVERFI provides a bilingual capability for training that allows county supervisory employees to take their AB 1825 training in either English or Spanish. A drawback with the current state of training infrastructure for MCCRO is that all training records are dispersed among several legacy training systems. Although all county training data is still accessible, there is yet no unified application interface (API) to seamlessly retrieve all MCCRO training records. The Civil Grand Jury was told that this is an ongoing project that had not yet been completed at the time of this investigation.

As mentioned in other portions of this report, there are many different requirements for monitoring scheduled training, managing training records and even overseeing the storage of AB 1825 materials. The Civil Grand Jury reviewed how MCCRO completes these functions.

MCCRO provided real-course training materials, past rosters, and data to show how the office managed AB 1825 compliance. The training materials and rosters provided complied with state guidelines, however training certificates were not provided for supervisory employees.

Based on data provided to the Civil Grand Jury by MCCRO, the number of supervisors on payroll each year varied. For the years examined by the Civil Grand Jury, the rosters reflected the following supervisor counts: FY 2016/17 = 940 supervisors, FY 2017/18 = 1,108 supervisors, and FY 2018/19 = 1,018.

The Civil Grand Jury requested information on the *total number of supervisors trained* in AB 1825 during each fiscal year for the three years (FY 2016/17, FY 2017/18, FY 2018/19). The data that MCCRO provided are summarized below:

AB 1825	Total Trained	Main Roster of AB 1825 training	Other AB 1825 Rosters Provided
FY 2016/17	441	425	16
FY 2017/18	429	347	82
FY 2018/19	976	933	43

These records show that a significant amount of AB 1825 supervisor training was presented during this period. These numbers are compared with the corresponding years' supervisor rosters. The data for FY 2018/19 suggests a positive picture.

AB 1825	Total Trained	Roster of Supervisors (FY)	% Supervisors trained
FY 2016/17	441	940	46.9% (441 / 940)
FY 2017/18	429	1108	38.7% (419 / 1108)
FY 2018/19	976	1018	95.8% (976 / 1018)

However, this conclusion is not completely accurate, and it is not completely verifiable. Instead of having 95.8% of supervisory personnel trained in AB 1825 in FY 2018/19, the Civil Grand Jury uncovered an opposite picture: 38.6% (393) of all listed supervisors for FY 2018/19 had not only not received *any* AB 1825 training that year—they had not received any AB 1825 training for the entire three-year period.

The Civil Grand Jury sought to determine how this significant difference could occur. The primary reason suggested by this investigation is a deficiency in training tracking, in this case, supervisor AB 1825 training tracking.

The Civil Grand Jury noted that the names on all AB 1825 training rosters provided by the MCCRO were frequently different from the names on the rosters of supervisors as

provided for the corresponding fiscal years. For example, one AB 1825 training roster for FY 2018/19 listed 933 supervisors trained. The Civil Grand Jury discovered that 41.4% of the names on that list (386 supervisors) were *not* listed on the official supervisor roster provided for that same year. This same gap, with varying proportions, existed for every year's training lists and every year's supervisor rosters.

So, instead of having 976 of 1,018 (95.8%) supervisors trained in AB 1825 in 2018/19, the actual number of supervisors (on the roster) either trained that year, or qualified that year under the AB 1825 biannual training requirement was only 593 or **58%**. This included 510 roster-supervisors who did attend AB 1825 training during that fiscal year, and also included another 83 (roster) supervisors who were qualified because they had already taken training within 24 months, or within the two years allowed (using the Training Year Tracking Method).

When asked during interviews why there were name and training discrepancies in the rosters provided, MCCRO personnel replied that there were several issues. First, MCCRO requests supervisor rosters from the departments. Sometimes rosters may include non-supervisors when departments provide "management group" rosters that include more than actual supervisors. Sometimes departments have personnel who are acting in supervisory positions, and even attend required AB 1825 training, but they are not reflected on actual supervisory rosters. Finally, they added that MCCRO does not have HR control over individual records—so data like "date hired," or "date promoted," which are important for ensuring AB 1825 compliance, require extra steps and additional coordination to obtain.

MCCRO personnel interviewed by the Civil Grand Jury also suggested that this problem is mitigated to an extent because department LMSs "self-track" training. MCCRO actively works with the LMSs, who are part of each department. These LMSs work to ensure that their departments comply with required training regardless of what rosters or lists are on file. This suggests that many, if not all the "non-roster" personnel who

took AB 1825 training—the 446 personnel (976-510) difference in FY 2018/19 example above, may have been supervisors or acting supervisors.

The Civil Grand Jury could not confirm this at the department level, but it did note that the training rosters provided were also inaccurate. The computer-generated training rosters included more than a half-dozen names that were listed backward—an individual whose first name was listed as the last name and last name as a first name. This turns the tracking process for individuals into a manual stop-and-search action. While it is a repeated yet small lack of attention to detail on a training list, this same lack of attention to detail is mirrored at the macro level for AB 1825 training.

For all three years of requested data, there is an unacceptable lack of accuracy for the list of each FY's supervisors. This lack of precision undermines MCCRO's tracking of AB 1825 training compliance. The Civil Grand Jury determined that in part this is an issue of LMS training and supervision, and in part it this is an issue of MCCRO standards for data required for managing state AB 1825 supervisor training. The Civil Grand Jury recommends that MCCRO specialists who manage training compliance be provided more access to the HR Department. The Civil Grand Jury determined that the workload for compliance management is greater than the current staffing for that function can perform professionally.

FINDINGS

Findings – City of Carmel-by-the-Sea

F1. A November 2018 classroom training by the United States Equal Employment Opportunity Commission was not in compliance with AB 1825 and 2 CCR §11024: a) it was not undertaken within 24 months of the last training event for any of the attendees, b) insufficient time was allocated to the required subject matter, and c) written proof of attendance and/or course completion was not generated.

F2. A contributing factor to the city's failure to meet the two-year timeframe for sexual harassment/abusive conduct re-training was the absence of city staff with the responsibility to oversee employee training.

F3. The lack of attendance and completion of paperwork for the November 2018 EEOC classroom training was due in part to the city's assumption that the trainer would be responsible for all such documentation, and in part to the EEOC's practice of not generating certificates.

F4. There were six people who the city either hired or promoted to supervisory positions at some point during the 2017/18 fiscal year, and who should have received AB 1825 training within six months of hire/promotion. The November 15, 2018 EEOC training could have afforded a timely compliance scenario only for those FY 17/18 employees that were hired/promoted during the six-week period between May 16 and June 30, 2018. There were no other AB 1825 trainings of city employees during the period May 16, 2017 to November 15, 2018.

Findings – City of Del Rel Oaks

F5. The city of Del Rey Oaks has not ensured that every employee who is required to take AB 1825 training, completes that training in a manner and at a time as required by law.

F6. The city has not provided their employees with an updated and accurate Personnel Manual that includes all AB 1825 and related training requirements.

Findings – City of Gonzales

F7. Gonzales currently has a viable dual approach toward of AB 1825 training through use of group-oriented classroom presentations and e-learning (i.e. computer-based training). Classroom presentations are preferred but E-learning is used for supervisorial promotions/new hires (e.g. where a classroom training is unavailable).

F8. A December 6, 2016 classroom training by Concern-EAP, although deficient with reference to 2 CCR §11024, was sufficient to render the city of Gonzales compliant with the training mandate imposed by AB 1825.

F9. Online AB 1825 training by EVERFI that was done in 2017 was not in compliance with AB 1825 and 2 CCR §11024: the Civil Grand Jury was provided with insufficient information upon which to make a determination whether or not the online supervisory employee training complied with 2 CCR §11024.

F10. The city failed to meet the timeframe for sexual harassment/abusive conduct re-training of supervisory employees, as directed by California Government Code §12950.1 and more particularly specified in 2 CCR §11024.

F11. The city's failure to meet the timeframe for sexual harassment/abusive conduct re-training established by 2 CCR §11024 was due to staff changes and workload issues.

F12. The city has no written policy about AB 1825 sexual harassment/ abusive conduct training.

Findings – City of Greenfield

F13. Greenfield's Office of the City Manager should be recognized for its clear understanding of state requirements for AB 1825 supervisor training, and its dedicated approach to actively conducting both online and in-person classroom AB 1825 supervisor training in spite of lack of support from some city supervisory employees.

F14. The city's sexual harassment prevention policy (Attachment B to Rule 17, Section 7) is incomplete and out of date. It does not provide adequate information to assist employees or guide supervisors in dealing with sexual harassment situations.

F15. The city's Office of the City Manager's AB 1825 compliance records management is inadequate. The combination of a lack of a viable tracking system and a single staff point of contact has made effective tracking and compliance problematic.

F16. The city's Office of the City Manager's decision to use an automated learning management system, like TargetSolutions, was a positive measure that may facilitate more timely training delivery and better records keeping in the future.

F17. Even with an automated learning management system for AB 1825 training and records compliance, the city's Office of the City Manager will have continued difficulty meeting state standards for AB 1825 training compliance because of

competing work requirements in the City Manager's office and the limited time and resources devoted to this training. The current approach does not recognize the expanded range of compliance measures required by AB 1825.

Findings – King City

F18. King City is to be commended for their excellent record in maintaining **100%** compliance with AB 1825 requirements for the fiscal years 2016/17, 2017/18 and 2018/19.

Findings – City of Marina

F19. Marina has implemented a streamlined, effective training year tracking system for AB 1825 training for supervisory employees in its general management group.

F20. The city did not address an alternate online training source for new and promoted supervisors during 2018, which may have resulted in two late trainings.

F21. A high-ranking official is the only supervisory employee with no record of training for 2017 or 2019 and is assumed to have failed to complete required AB 1825 training.

F22. The city's written, stand-alone harassment policy needs updating, because it is missing certain language governing protected classes required by the California Department of Fair Employment and Housing's 2 CCR §11023 regulations, and it does not contain a reference to AB 1825 supervisor training mandated under 2 CCR §11024 regulations.

F23. Revision of the city's Personnel Policy Manual is extremely overdue.

Findings – City of Monterey

F24. The city of Monterey's personnel tracking system does not include enough data to ascertain whether employees promoted to a supervisory position received AB 1825 training within six months of hire or promotion as a supervisory and then every two years thereafter.

F25. Monterey was unable to provide a complete and accurate roster of all of its supervisory employees along with their AB 1825 training dates resulting in the Civil Grand Jury having insufficient information to determine if the city was indeed training all of its supervisors timely and according to AB 1825 mandates.

F26. Monterey's sexual harassment policy titled, *Harassment/Discrimination/ Retaliation/Abusive Conduct/Bullying Policy,* in city code 25-3.03 accurately reflects the 2 CCR §11023 conduct prohibitions, but it does not include the mandated employee training requirements in 2 CCR §11024.

Findings – City of Pacific Grove

F27. Pacific Grove has a first-rate classroom training program. However, its structured in-person training dates sometimes make it hard to achieve timely training for all employees who have training due.

F28. The city's existing AB 1825 recordkeeping system does not facilitate tracking two-calendar year retraining and six-month supervisory employee training.

F29. The city's electronic onboarding or induction does not ensure timely six-month training for new and promoted supervisors, which has resulted in a low percentage of timely training.

F30. The city's policies no. 100.80 –100.110, *Harassment, Discrimination, and Retaliation Prevention Policy and Complaint Procedure*, found in the

Administrative Policies and Procedures Manual posted on the website, are missing a reference to mandated AB 1825 training requirements contained in 2 CCR §11024 regulations.

F31. The city's Employee Handbook, for which employees sign an acknowledgement of receipt, is missing references to AB 1825 policy and mandated training requirements.

Findings – City of Salinas

F32. The city of Salinas HR Department should be recognized for its clear understanding of state requirements for AB 1825 supervisor training and its active and professional approach to that training for the city.

F33. The city's AB 1825 compliance program is generally compliant with state requirements but is somewhat deficient in identifying and ensuring new supervisor six-month AB 1825 training compliance.

F34. The city currently manages AB 1825 using the New World ERP system and using online vendors like TargetSolutions. This dual systems approach is a point of potential failure in tracking.

F35. The city currently manages AB 1825 using the New World ERP system and HR records to generate notices for supervisors of required training. However, the Civil Grand Jury found there is insufficient senior management accountability or focus on the individual city supervisory employee to complete required training in a timely manner. Absent senior management emphasis, complete compliance or even high rates of compliance with AB 1825 training requirements may be difficult to achieve.

Findings – Sand City

F36. For two employees, Sand City failed to meet the two-year timeframe for sexual harassment/abusive conduct re-training of supervisory employees, as directed by California Government Code §12950.1 and more particularly specified in 2 CCR §11024.

F37. The city has no written policy regarding AB 1825 sexual harassment/abusive conduct training.

Findings – City of Seaside

F38. Seaside is commended for its fully compliant AB 1825 written policy.

F39. The city has a comprehensive AB 1825 training program that allows employees to select their preferred training method.

F40. The city does not fully coordinate course completion between its three AB 1825 training modalities (classroom, online, and webinar) and does not limit employee training, which has resulted in some supervisory employees training more than required and other training late or not at all.

F41. Seaside's onboarding procedures are ineffective at ensuring new and promoted supervisory employees complete AB 1825 training within six months.

F42. The city lacks an efficient recordkeeping system for AB 1825 training compliance, and some training records for supervisory employees are archived off-site and are not readily accessible.

Findings – City of Soledad

F43. Soledad is to be commended for their excellent record in maintaining **100%** compliance with AB 1825 requirements for the fiscal years 2016/17, 2017/18, and 2018/19.

Findings – County of Monterey

F44. Monterey County Civil Rights Office (MCCRO) has a strong, professional understanding of all requirements to comply with AB 1825 training in the Monterey County government, and delivers high quality, compliant AB 1825 training to County supervisory employees in both online and classroom/in-person settings.

F45. MCCRO's AB 1825 compliance records management is inadequate. The office (1) lacks a unified interface for accessing or directly managing all past training, and (2) lacks sufficient access to individual personnel records to actively track ongoing AB 1825 training deadlines for current or new supervisors.

F46. MCCRO's AB 1825 compliance records management process is a complex series of push-pull actions—requiring careful, ongoing interaction between the MCCRO and other County departments. Each department has Learning Management Specialists to help make this process work, but the MCCRO itself does not have sufficient staff to keep up with the coordination and planning work of ensuring AB 1825 training requirements are met for supervisors in all departments.

F47. Monterey County Civil Rights Office leadership and staff displayed a high degree of professionalism and personal commitment to the spirit as well as the letter of the AB 1825 law. All office personnel were forthcoming, honest, and helpful for this investigation.

RECOMMENDATIONS

When the 2019/20 Civil Grand Jury began our investigations, COVID-19 had not yet become a public health crisis. However, as we conclude our reports, we are tasked to specify a time frame within which to address our recommendations. We have done so, attempting to allow some extra time given the current situation. We ask the County Supervisors, Departments, Cities, and Special Districts responsible for enacting our recommendations to do their best to accomplish these goals as expeditiously as possible, given the effect of the current pandemic crisis on staffing availability.

Recommendations – City of Carmel-by-the-Sea

R1. By September 30, 2020, AB 1825 sexual harassment/abusive conduct training undertaken by and/or at the direction of the city of Carmel-by-the-Sea should follow the directives and protocols laid out in 2 CCR §11024, including but not limited to the following areas: frequency, duration, and documentation of training; content of training; method of delivery of training; qualification of the trainer.

R2. By September 30, 2020, Carmel-by-the-Sea should always have a staff member whose responsibility includes oversight of AB 1825 sexual harassment/abusive conduct workforce training.

Recommendations – City of Del Rey Oaks

R3. By December 31, 2020, those Del Rey Oaks supervisory employees who received AB 1825 training in 2018, should have completed the training again, as the law mandates the training must be completed every two calendar years or every 24 months, whichever method is chosen by the employer.

R4. By September 30, 2020, Del Rey Oaks should have published an updated Personnel Manual that references current law on harassment of all types and on

mandated harassment training. Del Rey Oaks should make the revised manual available to all employees.

Recommendations – City of Gonzales

R5. By September 30, 2020, AB 1825 sexual harassment/abusive conduct training undertaken by and/or at the direction of the city of Gonzales should follow the directives and protocols laid out in 2 CCR §11024, including but not limited to the following areas: frequency, duration, and documentation of training; content of training; method of delivery of training; qualification of the trainer.

R6. By September 30, 2020, the city should retain a full and complete written record with respect to all AB 1825 trainings that it provides, sponsors, or otherwise uses, regardless of whether delivered via classroom, e-learning, or webinar format.

R7. By December 31, 2020, the city should prepare a written AB 1825 harassment, discrimination, retaliation prevention policy that is consistent with 2 CCR §11023; the policy should contain a provision covering the employer's training obligation under G.C. §12950.1 and 2 CCR §11024.

Recommendations – City of Greenfield

R8. Greenfield should revise its sexual harassment prevention policy to reflect current state law, city practices, and to make it a useful guide for employee and supervisors alike. This revision should be completed by December 20, 2020.

R9. The city's Office of the City Manager should review and revise current management practices for AB 1825 supervisory training and tracking. This revision should include: (1) development of a city supervisory responsibility system that will create a "demand pull" for AB 1825 supervisor training to complement the current "requirement push" approach that the city has used; (2) integration of all in-person classroom AB 1825 training rosters and training data with the TargetSolutions learning management system to ensure one unified

management, tracking, and reporting system for all AB 1825 training; and (3) off-loading the AB 1825 training and tracking responsibilities from the Office of the City Manager to a new or existing HR section, or augmenting the Office of the City Manager's personnel with part-time or dedicated personnel responsible for tracking and coordinating AB 1825 training and compliance data. This revision should be completed by June 30, 2022.

Recommendations – City of Marina

R10. Marina should employ a back-up online training provider in the event of a future hiatus in the TargetSolutions training program. This recommendation should be implemented no later than 6 months after this report is published.

R11. Department heads should be models to other supervisory employees on the importance of respect in the workplace. Therefore, by September 30, 2020, the one city official who did not train in 2017 and 2019 should complete online AB 1825 training in 2020, 2021, and subsequent odd years.

R12. The city should update its written, stand-alone, "Policy Against Sexual Harassment," and its associated Acknowledgement of Receipt form, within 90 days of the publication of this report.

R13. The city should revise its *Personnel Policy Manual* so that it reflects the mandated training requirements outlined in 2 CCR §11024. This recommendation should be completed no later than 12 months after this report is published.

Recommendations – City of Monterey

R14. Monterey should revise their personnel tracking system to include all city employees regardless of department, each employee's date of hire as a supervisor or date of promotion to a supervisory position, and date of classification change to a non-supervisory position, in order to accurately determine if AB 1825 training mandates are being met. This recommendation should be completed no later than 12 months after this report is published.

R15. The city should review its *Harassment/Discrimination/Retaliation/Abusive Conduct/Bullying Policy* to include the employee training requirements mandated by 2 CCR §11024. This recommendation should be completed no later than 12 months after this report is published.

R16. The city should diligently assess whether the AB 1825 training programs it uses, such as those offered by the federal EEOC, meet the training curriculum mandates outlined in AB 1825 and its amendments. This recommendation should be completed no later than 12 months after this report is published.

Recommendations – City of Pacific Grove

R17. By September 30, 2020, Pacific Grove should continue to improve its recordkeeping efforts and fully update its supervisory employee roster worksheet to better track and address potentially late AB 1825 training before it becomes late.

R18. The city should develop a practice to individually counsel and refer new and promoted supervisors to online training when classroom training is not available within six months of their hire. Those employees also should be encouraged to take the next session of in-person classroom training to reinforce the city's culture of respect. This recommendation should be completed no later than six months after this report is published.

R19. By December 31, 2020, the city should amend their Administrative Policies and Procedures Manual, policies no. 100.80 –100.110, *Harassment, Discrimination, and Retaliation Prevention Policy and Complaint Procedure*, to reference AB 1825 training requirements per 2 CCR §11024 regulations.

R20. The city should publish an updated Employee Handbook that references current law on harassment of all types, on abusive conduct, and on mandated harassment training. Pacific Grove should distribute the revised handbook to all employees and require them to sign a new acknowledgement of receipt. This recommendation should be completed within 18 months of the publication of this report.

Recommendations – City of Salinas

R21. By June 30, 2021, the city of Salinas should automate the six-month new supervisor training signal for AB 1825 training. The city's HR Department should develop an automated HR noticing process that informs all newly hired or appointed supervisors of the six-month AB 1825 supervisor training requirement, and signals HR to (automated or manually) enter that training suspense in the New World ERP system.

R22. By June 30, 2022, the city should continue to advance HR integration and automation of training processes and functions. This should include (1) automated notices or "ticklers" to supervisors on AB 1825 training deadlines, (2) integrating online training records with the New World ERP system, and (3) routinely creating global city reports of compliance that can provide HR and senior city leadership with a comprehensive snapshot of AB 1825 training compliance by city supervisory personnel.

R23. By September 30, 2020 the city's senior management should adopt a stronger emphasis on promoting individual city supervisory employee responsibility to

complete required training, including AB 1825 supervisor training, in a timely manner.

Recommendations – Sand City

R24. By December 31, 2020, Sand City should ensure that AB 1825 sexual harassment/abusive conduct prevention training undertaken by and/or at the direction of the city follows the directives and protocols laid out in 2 CCR §11024, including but not limited to the following areas: frequency, duration, and documentation of training; content of training; method of delivery of training; qualification of the trainer.

R25. Sand City should develop a system to ensure that a full and complete written record of all AB 1825 trainings that it sponsors, regardless of whether delivered via classroom, e-learning, or webinar format, is in place and includes the date of the trainings and the names of attendees. This recommendation should be completed within 18 months of the publication of this report.

R26. By December 31, 2020, Sand City should engage with the City Attorney, other staff, or an outside contractor to prepare a written policy regarding AB 1825 sexual harassment/abusive conduct prevention training for its workforce.

Recommendations – City of Seaside

R27. By September 30, 2020, the city of Seaside's HR Director should assign one HR staff member to oversee AB 1825 training requirements and recordkeeping, so that all employees with training due in 2020 are trained by December 31, 2020.

R28. Seaside should implement an onboarding system that effectively captures new or promoted employees and requires them to complete AB 1825 training within six

months of their hire or promotion. This recommendation should be completed within 90 days of the publication of this report.

R29. Seaside should adopt an effective training tracking system to assemble all AB 1825 recordkeeping in one location, preferably saved to electronic files with cloud access. This recommendation should be completed within 18 months of the publication of this report.

Recommendations – County of Monterey

R30. The Monterey County Civil Rights Office should review and revise the processes used to manage AB 1825 supervisory employee records to include the following: (1) develop a unified interface for accessing and directly managing all past training; (2) develop a method either with Learning Management Specialists, or centralized with an automated and trackable notice or tickler for AB 1825 training due dates; and (3) increase staffing and authority for personnel responsible for tracking and coordinating AB 1825 training and compliance data. This recommendation should be completed within 18 months of the publication of this report.

REQUIRED RESPONSES

Pursuant to Penal Code §933 and 933.05, the Civil Grand Jury requests responses as follows:

City of Carmel-by-the-Sea

- The City Council of City of Carmel-by-the-Sea
  - Respond to Findings: F1 – F4
  - Respond to Recommendations: R1 – R2

City of Del Rel Oaks

- The City Council of Del Rel Oaks
    - Respond to Findings: F5, F6
    - Respond to Recommendations: R3 – R4

City of Gonzales

- The City Council of Gonzales
    - Respond to Findings: F7 – F12
    - Respond to Recommendations: R5 – R7

City of Greenfield

- The City Council of City of Greenfield
    - Respond to Findings: F13 – F17
    - Respond to Recommendations: R8 – R9

City of Marina

- The City Council of City of Marina
    - Respond to Findings: F19 – F23
    - Respond to Recommendations: R10 – R13

City of Monterey

- The City Council of City of Monterey
    - Respond to Findings: F24 – F26
    - Respond to Recommendations: R14 – R16

City of Pacific Grove

- The City Council of City of Pacific Grove
    - Respond to Findings: F27 – F31
    - Respond to Recommendations: R17 – R20

City of Salinas

- The City Council of City of Salinas
    - Respond to Findings: F32 – F35
    - Respond to Recommendations: R21 – R23

City of Sand City

- The City Council of Sand City
    - Respond to Findings: F36 – F37
    - Respond to Recommendations: R24 – R26

City of Seaside

- The City Council of City of Seaside
    - Respond to Findings: F38 – F42
    - Respond to Recommendations: R27 – R29

County of Monterey

- The Monterey County Board of Supervisors
    - Respond to Findings: F44 – F47
    - Respond to Recommendations: R30

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Civil Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

WORKS CITED

2 CCR (California Code of Regulations) §11024. Required Training and Education Regarding Harassment Based on Sex, Gender Identity, Gender Expression, and Sexual Orientation. https://govt.westlaw.com/calregs/Document/I4597AA3786DE4A7B820F9D02C8795550?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)

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Flanagan, Caitlin. “The problem with HR.” *The Atlantic* (July 2019). https://www.theatlantic.com/magazine/archive/2019/07/hr-workplace-harrassment-metoo/590644/

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MONUMENT TO A FAILED PROCESS:
South County Use Permit PLN 180317

SUMMARY

Based on complaints received by the Civil Grand Jury, an investigation was conducted into Monterey County Resource Management Agency (RMA) Planning Department's handling of Use Permit Application PLN 180317. This was an application to construct a wireless communications facility (cell tower) in South County. On June 15, 2018 that application was submitted. On October 25, 2018, the Use Permit was approved.

Cell tower construction started early in August 2019 on private property in South County, and the South County community immediately raised complaints to County elected and appointed leaders, stating that the Application was never sent to the South County Land Use Advisory Committee (LUAC) for review on design and local considerations as was required. They also complained that the cell tower's location was unsuitable, and its size was inappropriate.

The District Three Supervisor responded to local outcries, and together with RMA Planning managers, met with the community. Staff acknowledged to the community that the South County LUAC should have reviewed the application. Staff also offered to work with the applicant to ensure that the design of the post-construction tower was the most agreeable possible to the community. However, nothing about the cell tower was changed. One neighbor continues to assert that the cell tower construction damaged his well water, reducing its production.

Since that time, RMA Planning increased its outreach to the South County community, and RMA Planning managers also appear to have raised their sensitivity and oversight on subsequent applications--especially cell tower applications. South County local residents still assert that the tower location is unsuitable and oversized for the area.

GLOSSARY

47 CFR § 1.1307	47 Code of Federal Regulations Section 1.1307
47 US Code §332	U.S. Code Title 47. Telecommunications. Chapter 5. Wire or Radio Communication Subchapter III. Special Provisions Relating to Radio. Part I. General Provisions. Section 332. Mobile services.
The Application	Planning Department's Use Permit Application Number PLN 180137 for the Wireless Telecom Facility on Hesperia Rd in South County
BoS	Board of Supervisors
CFR	Code of Federal Regulations. The codified and published general and permanent rules from the Federal Register for all departments and agencies of the Federal Government.
CPUC	California Public Utilities Commission
CPUC GO	CPUC General Order
DA	Design Permit (application) number in RMA Planning
ERP	Effective radiated power
FCC	Federal Communications Commission
FCC Shot Clock	An FCC rule that sets and tracks time permitted to process a wireless communications facility application.
IAW	In accordance with
LUAC	Land Use Advisory Committee
MCC	Monterey County Code
MPE	Maximum personal exposure
OET65	FCC/OET Bulletin #65 to help determine whether proposed or existing transmitting facilities, operations or devices comply with human exposure to radiofrequency limits.
OET (FCC)	Office of Engineering and Technology (in the FCC)
PLN	Planning permit (application) number in RMA Planning
RMA	The Monterey County Resource Management Agency
RMA Planning	The current planning division of RMA
RMA planners	The staff planners, who work in RMA Planning
SC LUAC	South County Land Use Advisory Committee
RF-EME	Radio frequency electromagnetic energy
Toll	To officially pause (a shot clock) timing process
ZA	Monterey County Zoning Administrator

METHODOLOGY

The Civil Grand Jury investigated this situation using the following methodology:

A. By reviewing:

- All relevant Federal, State, and County codes on wireless communications facilities.
- All County records about Use Permit PLN 180317, and several other County Use Permit records about other nearby wireless communications facilities, built or planned.
- Selected County Assessor and Tax records for primary and alternative sites.
- Relevant Monterey County codes (including public hearings, zoning, wireless communications facilities, rural grazing zone district, permit guidelines, etc.).
- The Monterey County General Plan (10/26/2010); including the South County Area Plan, Chapter 9-H.
- The Monterey County Land Use Advisory Committee Procedures ("LUAC Guidelines"), adopted by Board of Supervisors November 18, 2008, last amended April 28, 2015.
- All available records of Monterey County South County LUAC meetings, and many other County LUAC meeting schedules and records for the past two years, plus other County records that provided background, context or clarity to the investigation.
- Public discussion of this permit in open source, and other relevant public discussion in South County about wireless issues, land use, and other LUAC issues.

B. By interviewing:

- Selected Monterey South County residents.
- Selected Monterey County government managers and staff.
- Selected Monterey County government board, commission, or committee personnel.
- Selected Federal Communications Commission (FCC) personnel about relevant FCC regulations and policies.

C. By visiting and examining:

- The wireless communications facility authorized by Use Permit PLN 180317.
- The proposed alternative site for the wireless communications facility as claimed in Use Permit PLN 180317.
- Several close-by wireless communications facilities already built or proposed in the South County area.

SCOPE

A. This report considers:

- to what degree the RMA Planning department was diligent and accurate in processing the application in accordance with County code and policies.
- to what degree the required and optional opportunities for community participation in this land use decision were provided.

B. This report's focus on the cell tower itself is limited to certain essential observations related to location, design, and equipment in the context of the County Code, State, and Federal law. Questions on possible health issues with

cellular technology, or those related to the tower's possible use for 5G networks are outside of the scope of this report.

C. Below are regulatory considerations that provided context for this investigation:

- This application's purpose was "to close significant service coverage gap areas..." (Staff Report Exhibit E) and provide service where none existed. [State or local governments] "shall not prohibit or have the effect of prohibiting the provision of personal wireless services." (47 U.S. Code §332. (c)(7)(B)(ii)).

- Federal law (47 U.S. Code §332. (c)(7)(B)(iv)) states: "No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions."

- However, Federal law (47 U.S. Code §332.(c)(7)(A)), State law (PUC 7901.1; CPUC GO-159A §2.B), and the County's wireless communications facility code (MCC 21.64.310.E) all recognize a local community and local governments' "…authority over decisions regarding the placement, construction, and modification of personal wireless service facilities." The FCC's *Third Report and Order* also acknowledged local governments' rights to preserve community character with aesthetics requirements that are not preempted if "they are (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance." (FCC 47 CFR Part 1.Declaratory Ruling, Aesthetics. 83 Fed.Reg. 199 (October 15, 2018). Para. 29, page. 51871).

- Finally, case law, including both the California Supreme Court and the United States Supreme Court decisions, also preserve certain rights of local governments to alter or even deny applications under particular conditions (cf.

T-Mobile West LLC v. City and County of San Francisco, S238001. April 04, 2019; *T-Mobile South, LLC v. City of Roswell*, 135 S. Ct. 808 (2015)).



PLN 180317 ON BRYSON-HESPERIA PLAIN

ABRIDGED CHRONOLOGY

- Jun 15, 2018: The Use Permit Application PLN 180317 was first submitted (processed on Jun 18, 2018). It was a use permit to allow the installation of a 120-foot tall wireless communication facility disguised as a Eucalyptus tree on Hesperia Road, Bradley, in the South County Area of Monterey County.

  [FCC Shot Clock starts = 150 days ("§332 tower")]

- Aug 9, 2018: Application was considered "accepted" by County.

- Aug 9 – Oct 18, 2018: RMA planners processed the Application through more than 12 internal reviews, plus additional internal and external administrative coordinating steps. The Staff Report was prepared.

- Oct 25, 2018: The Completed Application was presented to the Monterey County Zoning Administrator for approval in a public hearing.

- Oct 25, 2018: PLN 180317 was approved by the Monterey County Zoning Administrator with adjustments to required conditions.

[FCC Shot Clock Ends @ 132 days = 18 days left]

- Nov 5, 2018: No appeal was received. The Use Permit 180317 status was final.
- Jan 23, 2019: The related building permit for project was accepted.
- June 18, 2019: The building permit (19CP00222) for the project was issued.
- Aug 4-6, 2019: Vertical building of the tower was underway.
- Aug 16, 2019: Local residents complained to local leaders about the unexpected cell-tower.
- Aug 28, 2019: District 3 Supervisor conducted a meeting in the South County Bryson-Hesperia community, and invited RMA Planning managers to explain how a cell tower was suddenly built on Hesperia Road.



DISTRICT THREE SUPERVISOR & COUNTY STAFF
MEET WITH THE COMMUNITY
ON AUG 28, 2019 TO DISCUSS THE NEW CELL TOWER

- Oct 16, 2019: Another Use Permit (PLN 190347) for a different cell tower in the South County area was received and processed by RMA Planning. It was reviewed by the South County LUAC on November 20, 2019.
- Dec 20, 2019: The cell tower on Hesperia Road became operational.

DISCUSSION

Use permit application PLN 180317 for the Hesperia Road cell tower, was one of a growing number of requests to build wireless communications facilities (cell towers) in Monterey's South County. It is part of a positive drive to ensure South County has the connectivity required to deliver community support for emergencies, work, personal development, and for life in our contemporary world.



HESPERIA ROAD -- CELL TOWER CONSTRUCTION

However, the review, approval, and construction processes for this cell tower were done with an unfortunate insensitivity toward South County that hurt both the aesthetics and natural character of the community. It also reduced the chances that South County will welcome future towers without resistance.

A. An Application of Errors (F2, F3)

This application's staff report and public hearing materials contained a number of errors including two misrepresentations that undermined the application's effectiveness and resulted in adverse consequences. In spite of these errors, the cell tower was approved in 132 days and completed less than 10 months later.

Central among the errors that the Civil Grand Jury found was the bewildering view some RMA planners had toward the Land Use Advisory Committee, or LUAC, in South County. That view was epitomized in the Application's Public Hearing Draft Resolution and the accompanying staff brief, which both stated that Monterey South County (SC) did not have a Land Use Advisory Committee (LUAC). This was false.

This error was unexplainable. RMA planning personnel replied to Civil Grand Jury questions about this error by simply conceding it was a mistake. LUACs, including the South County LUAC (SC LUAC), were listed on RMA Planning's website.

Moreover, the SC LUAC held a rarely held meeting on May 16, 2018, just one month prior to this cell tower application being submitted. Finally, the SC LUAC even reviewed a prior cell tower application (PLN 130705) on June 18, 2014.

What are LUACs

- The Board of Supervisors has recognized the need for **Land Use Advisory Committees** (LUAC) in Monterey County since at least August 23, 1994.
- Today, Monterey County has 11 LUACs: 1. Big Sur Coast 2. South Coast 3. Carmel/ Carmel Highlands 4. Del Monte Forest 5. Greater Monterey Peninsula 6. Carmel Valley 7. Cachagua 8. Toro 9. North County 10. Castroville Community Plan 11. **South County.**

LUAC roles or missions:

a. Advise Appropriate Authority by providing comments & recommendations on referred land use matters

b. Reflect the perspective of the local community with focus on neighborhood character, unique community site and conditions & potential local effects or contributions from a proposed project.

c. Perform other land use reviews as requested

d. Provide a venue for project neighbors to provide input on proposed projects.

e. Identify concerns in response to staff-provided scope of review on neighborhood, community and site issues.

[MC BoS RES 15-043 No.7 April 28, 2015]

It is astonishing that this error was undetected in preparation, or review. However, this error was diligently noted and directly questioned by the Zoning Administrator in a public hearing.

This error raised troubling questions for the Civil Grand Jury: Did RMA planners and managers not know of the existence of the SC LUAC at that time? Do managers read the public hearing reports or documents in advance?

During investigations of these questions, the Civil Grand Jury found that the Board of Supervisor's Resolution 15-043 No.7 (April 28, 2015), which authorizes the LUACs, only

refers to the SC LUAC by its old (pre-January 2009) name, and calls it the “Bradley-Parkfield LUAC.” The Civil Grand Jury also found that the Board’s Resolution is a central document used by RMA Planning to train new planners on the roles and responsibilities of the LUACs. The Civil Grand Jury concluded that this mix-up is a built-in confusion point about LUACs. While all planners will likely “connect the dots” and realize that the Bradley-Parkfield LUAC is simply an out of date name for the current SC LUAC; it is also possible that a new planner might initially, mistakenly refer to the Board’s Resolution and then assert that there is no SC LUAC. If this error were not recognized by supervisors, then a Staff Report could be generated with that mistake in it and, more importantly, a LUAC could be bypassed.

The Civil Grand Jury investigation concluded that the planner involved with PLN 180317, with just over two month’s local experience at the time the application was tasked, and with no prior cell tower application experience in the County, was initially unaware of the existence of the SC LUAC, likely because of the Board Resolution error and the RMA Planning training approach mentioned above.

The Civil Grand Jury investigation also concluded that the RMA Planning managers, on the other hand, were aware of SC LUAC’s existence, but in this case did not review this application with professional diligence. For example, the Application’s draft resolution Finding 2.g) claimed:

> *The project was not referred to a Land Use Advisory Committee (LUAC) for review because this project is located within the South County Area Plan, which does not have an established Land-Use Advisory Committee.*

If it were read at all, this sentence appears to have been misread by managers. This type of inattention is puzzling and unacceptable--even though the planning manager was overseeing three projects at that hearing (including another cell tower) and simultaneously coordinating for a future hearing item as well.

The Civil Grand Jury next turned to the planner’s reply to the Zoning Administrator’s question during the public hearing. The Civil Grand Jury considered this question

because during the hearing, the Zoning Administrator's mention of the existence of a SC LUAC did not cause the RMA team to pause, or to mention the LUAC, or even to seek a continuance. In short, the Civil Grand Jury investigated why that wrong answer was provided.

When to LUAC

It is important to note that LUACs are advisory committees. They have no approval authority, nor do they have any quasi-judicial powers like some jurisdictional boards or commissions. Nonetheless, they are an important public participation mechanism.

The LUAC Guidelines (see above text box) have two attachments. One is titled "Exhibit A." This Exhibit is the Board of Supervisors' standards for how and when LUACs should review land use applications. Paragraph one of Exhibit A lists four conditions, or types of requests, under which any land use application shall be sent to a LUAC for its review (not approval!).

For PLN 180317, the necessary conditions were listed in paragraph 1(d), which states (sections omitted): "The applicable LUAC shall review projects that require the following: a)… b)… c)… d) *Design Approvals* for projects subject to review by the *Zoning Administrator* or Planning Commission." (emphasis added)

PLN 183017 was a Use Permit request that included a necessary *design approval* in accordance with County wireless communications code (MCC 21.64.310). That was the first trigger. In addition, the Application designated the *Zoning Administrator* as the approval authority, citing the same code (MCC 21.64.310.I.1). That was the second trigger. These two factors made this a project that required review by the SC LUAC . The preceding logic is simple and clear, but the Civil Grand Jury investigation discovered that, at the time of this application, there was confusion among some RMA planners about the scope and limits of LUAC participation.

Planner Confusion

The Civil Grand Jury noted that RMA Planning Managers, when interacting at Hesperia Hall on August 28, 2019 with the concerned, puzzled South County community about the new cell tower construction, were explicit and *not* confused in declaring that, according to the LUAC Guidelines, the Application absolutely should have gone to the SC LUAC for comment.

However, subsequent Civil Grand Jury interviews with RMA staff found that some planners privately asserted that, at the time of this application, LUAC reviews were perceived by some as more of “a courtesy” and “not really required.” The Civil Grand Jury concluded that, at the time of the Application, the belief that some applications could be routed to a LUAC as a courtesy blurred the fact that some applications must be routed to a LUAC as a requirement. In the case of this Application, the Civil Grand Jury concluded that this was one of two reasons why the planner asserted that this Application did not need a LUAC review in response to the Zoning Administrator’s question during the October 25, 20018 public hearing.

The other reason that the Civil Grand Jury concluded was a likely cause of planner confusion in the case of this Application was the organization of RMA Planning permits. Planning permits in RMA Planning are divided by type into nine different categories (Amendment, Cannabis, Certificate of Compliance, Design Approval, Discretionary, Extension, Minor, Phase, and Tree Removal). Some categories, including *design* approvals, have separate tracking codes (DA ######). Conversely, Use Permits are processed as *discretionary* permits and are tracked using the PLN ###### series.

When a new planner sees an application like PLN 180317, a discretionary (PLN) permit for a cell tower, that new planner may conclude that the application does not include a design approval --because it is not a “DA” series application. Next, since the LUAC Guidelines (paragraph 1.d.) require a LUAC review for *Design Approvals* (see above discussion), that planner may also conclude that this is “not-a-design-approval” application (PLN 180317), and therefore it does not require a LUAC review.

This logic is not unsound, except that Use Permits for cell towers *do* require a design approval, but only as a part of the County's wireless ordinance (MCC 21.64.310) approval process for the Use Permit, and not as a separate permit. The Civil Grand Jury determined that this was the second factor that prompted the planner's reply.

The Civil Grand Jury also noted that, since August 28, 2019, RMA Planning managers appeared to have clarified, by action and by education with staff, that LUAC Guidelines' paragraph one conditions are a minimum standard and not a limiting factor for LUAC referrals, and that reviews to LUACs are not a courtesy, but are a responsibility to consider for all appropriate land use applications.

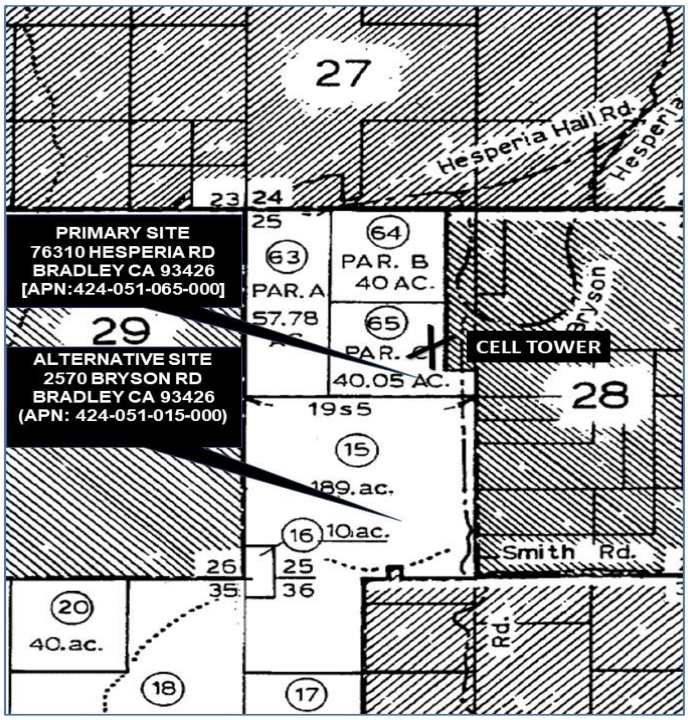
B. Losing Sight of the Alternatives (F4)



The Civil Grand Jury concluded that the analysis accepted and used by RMA planners for the Application's alternative site was inaccurate. It was the second consequential RMA planner mistake, and it undermined the chance for the Application to be done in a positive, win-win manner. Moreover, the Civil Grand Jury found that, in post cell tower construction assessments of this facility, the alternative site considerations have been downplayed, if not ignored. PLN 180317 stated that the alternative site was 2570 Bryson Road, Bradley CA 93426. County records show this as APN 424-051-015-000, but there is a confusing aspect to this location. Although the alternative site's street address is 2570 Bryson Road, the actual property is just next door to the primary site (76310 Hesperia Road, APN 424-051-065-000). Both properties are on the same Hesperia Road. This confusing factor did not justify, but might help explain, how the alternative site considerations were bungled.

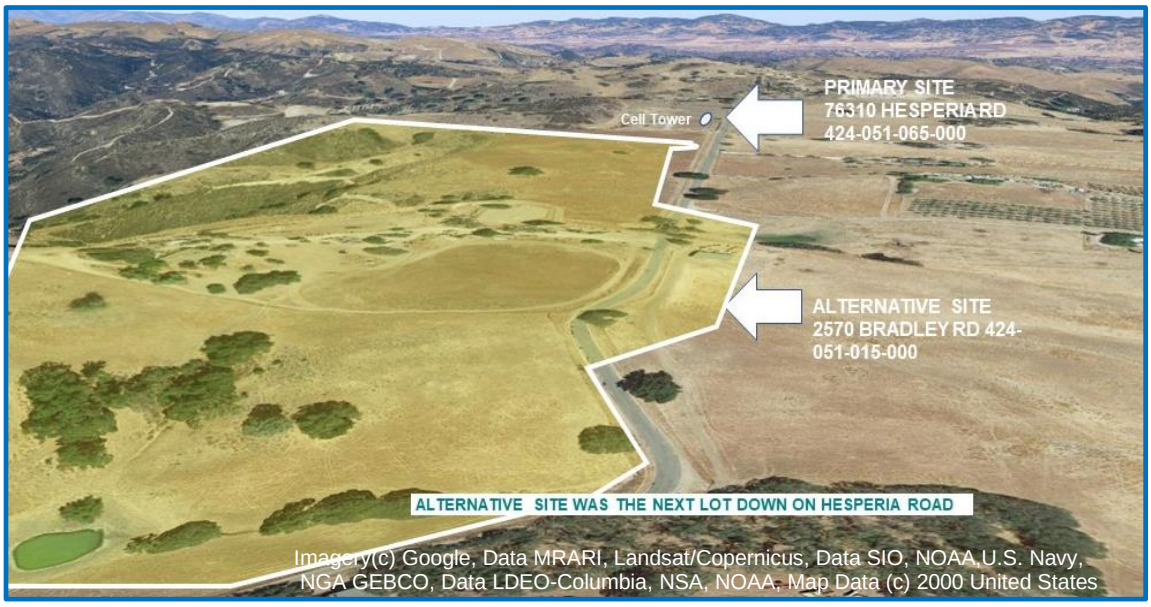
The Bryson-Hesperia area's local road network is straightforward and developed, but that normalcy does not translate into straightforward house numbers, or even consistent address identifications. 2570 Bryson Road is one such case.

The Civil Grand Jury investigated the alternative site's address at 2570 Bryson Road, Bradley CA 93426 by conferring with local area residents, exploring the local environment, and then researching Monterey County property and tax records. These actions confirmed that 2570 Bryson Road, Bradley CA 93426 is APN 424-051-015-000. It was the alternative site for the Application. The address on the roadside-mailbox for that property is simply 2570.



Parcel Map of Primary & Alternative Sites
(With cell tower approximate location)
County of Monterey Assessor's Map
Book 424 Page 05

RMA Planning's staff report for the Application dismissed the alternative site in two sentences: *"The applicant evaluated an alternative site located at 2570 Bryson Road, Bradley. Unfortunately, due to the mountainous terrain access and road constraints the proposed site was not physically feasible for the construction of the proposed tower."* (Staff Report, page 2).



After taking actions to understand and confirm the correct location of the alternative site, the Civil Grand Jury investigated the alternative site. Members walked approximately 1500 feet down the *flat, accessible* Hesperia Road from the primary site to the alternative site and did a thorough, firsthand visual examination of the *physical feasibility* of the 2570 Bryson Road property.

According to at least one County report, this alternative site is a lot of 186 acres in size and is more than four times the size of the primary site (44.702 acres).

Both sites have open pastureland on the same Bryson-Hesperia plain (approximately 1575 feet elevation). Just as both sites also have significant amounts of property on the supporting ridge to the west. Both properties spill over the western slopes leading to badland or valleys.

The County soil reports, which are public records, show that both sites share similar types of soil, and near-identical slopes. The alternative site provides: more area with each type of soil, each type of grade, and even each terrain type. Both sites provide flat and road-ready access. The alternative site has several internal, unimproved range roads.

In short, the Civil Grand Jury's firsthand, local area investigation was unable to authenticate "mountainous terrain access" or "road constraints" as asserted for this alternative site. The Civil Grand Jury concluded that (1) both sites shared similar terrain, and that (2) the alternative site provided more woodland, and more wooded backdrops for natural concealment or (partial) horizon mitigation. Not only was the alternative site less than a third of a mile from the primary site, it also shared the same topography, the same main road access, and even the same utilities as the main site.

Because of these factors, and because of the complete absence of any applicant or RMA Planning alternative site coverage maps, alternative site planning data, or any alternative site technical or specific terrain data that invalidated the alternative site, or even any direct pictorial evidence that simply supported the one sentence critique of that site,[1] the Civil Grand Jury concluded that information provided to reject the alternative site was erroneous.

This Civil Grand Jury investigation cannot determine whether this erroneous information was provided willfully or negligently. Nor can this Civil Grand Jury determine whether this erroneous description of the alternative site's access and road conditions is "*false material information*," as the term is used in Monterey County Code 21.70.070 (Revocation). However, the Civil Grand Jury recommends that the RMA Director investigate these questions.

[1] The Zoning Administrator's Public Hearing briefing (slide four) also shows a notional alternative site (Loc: 35.811832, -121.064535) in the approximate center of the 2570 Bryson Rd parcel. No technical or validating information was referenced or included.

This Civil Grand Jury did conclude that the analysis of the alternative site, as accepted by the RMA staff and presented to the Zoning Administrator for this application, was a significant and unrecognized mistake.



**PRIMARY SITE, WITH CELL TOWER,
LOOKING SOUTH TOWARD A TREELINE
ON THE ALTERNATIVE SITE**

C. Unnoticed Public Notice (F5)

Public noticing for this application was done in accordance with the MCC 21.78.040.A, which stipulates seven required noticing conditions. The conditions most relevant to PLN 180317 were the following four requirements (other numbers omitted):

> "A.1. Notice of the public hearing shall be mailed or delivered at least ten (10) days prior to the public hearing to the owner of the subject real property…and to the project applicant."

"A.3. Notice of the public hearing shall be mailed or delivered at least ten (10) days prior to the public hearing to all owners of real property as shown on the latest equalized assessment roll within three hundred (300) feet of the real property that is the subject of the public hearing."

"A.4. At least three public hearing notices shall be clearly posted at three different public places on and near the subject property. The notices shall be accessible and visible to the public."

"A.7. If the public hearing notice is mailed or delivered pursuant to Paragraph 3, the notice shall also be published in at least one newspaper of general circulation within the area at least ten (10) days prior to the hearing."



Notice of Public Hearing

Monterey County Zoning Administrator

NOTICE IS HEREBY GIVEN that the Zoning Administrator of the County of Monterey, State of California will hold a public hearing to consider taking action on the project described below. The hearing will be held on Thursday, October 25, 2018, at the hour of 9:30 a.m., in the Monterey County Board of Supervisors Chambers, County Government Center, 168 West Alisal St, Salinas, California, at which time and place any and all interested persons may appear and be heard thereon.

Project Name: ZAMORA JOSE & GLORIA (AT&T MOBILITY); Project File No.: PLN180317; **Project Planner:** Kenny Taylor (831) 755-5096 or taylork2@co.monterey.ca.us; **Project Description:** Installation of a wireless communication facility (120 ft. tall) disguised as a Eucalyptus tree. Project Location: 76310 Hesperia Road, Bradley (Assessor's Parcel Number 424-051-065-000), South County Area Plan **Proposed CEQA Action:** Categorically Exempt per Section 15303 of the CEQA Guidelines

TOBER 11-17, 2018 MONTEREY COUNTY WEEKLY 59

IF YOU CHALLENGE THIS MATTER IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS PUBLIC NOTICE OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE ZONING ADMINISTRATOR AT OR BEFORE THE PUBLIC HEARING.

FOR ADDITIONAL INFORMATION CONTACT:

Monterey County Resource Management AgencyPlanning,

1441 Schilling Place, South 2nd Floor, Salinas CA. 93901. (831) 755-5025.

Monterey County Weekly.
Notice in Oct. 10-17, 2018
Page 59 (classifieds)

All these things were done.

This Civil Grand Jury investigation found that at least one of the "300-foot owners" claimed not to have received any mailed notice of the public hearing. Yet, the Civil Grand Jury spoke with other local residents and neighbors, who either "had a sense that something was going on" at the primary site property due to the posted notices, or (as neighbors) did receive the RMA Planning's public hearing notice.

Based on all collected information, the Civil Grand Jury's assessment of the local situation prior to the hearing was that some residents seemed to be aware that something was going to occur on the primary site. However, the details –that a 120 foot cell tower with twelve (12) six-foot tall panel antennas, twenty two (22) remote radio units, four (4) DC surge compressors, one (1) microwave dish antenna, and one (1) back-up Diesel Generator set in a 900 square foot area protected by a seven foot high

wooden fence would soon appear over Hesperia, were completely missed and unexpected.

Based on Civil Grand Jury investigation, it is likely that less than 20 local residents may actually have been aware of the specifics of the Zoning Administrator's hearing prior to October 25, 2018.



PLN 180317 Public Hearing (10/25/18)

One neighbor did know enough to drive the 80 miles and attend the public hearing on October 25, 2018. That neighbor spoke forcefully against the application for himself, and on behalf of his community. Three minutes and thirty-two seconds later, the project was approved. Nine months later, when the cell tower was raised in the space of days, most of the community were perplexed.

It was only after the tower emerged from the ground, and overwhelmed the Bryson Hesperia Plain along Hesperia Road, that the community finally understood. At that point they reacted as a community to find out what had happened and how it had happened. The Civil Grand Jury examination found that some people also sought to undo the tower, to have it taken down. However, that effort appeared to be stillborn, and had no traction among County staff.

The Civil Grand Jury has concluded that public noticing on the property drew some attention, but not sufficient attention, to the project. Property postings, done according to code, were relatively small in that expansive, rural setting. The occasional passing resident would find little incentive to stop, park on Hesperia road, climb up the bank on the side of the property, and try to read the public hearing flyer.



Tuesday, August 6th, 2019 Tower Construction

Not one of the residents of that South County area who met with the Civil Grand Jury said that they had read, or even noticed, the official hearing notice published in the Monterey County Weekly during the week of October 10 -17, 2018. Some stated that they did not read that paper, ever.

It is the Civil Grand Jury's conclusion that the code-compliant public noticing effort for this application fell short in informing or stimulating public awareness in that rural, remote South County community.

The Civil Grand Jury next sought to investigate this issue from the perspective of County officials, and RMA planners. Results varied. Some respondents asserted that complying with the public noticing code was all that was necessary, and that no additional steps should be taken because they are not required. Moreover, because this approach was done County-wide, it should be considered "effective."

Other respondents, both junior and senior, viewed noticing differently. One described noticing by saying "you can never over-notice," meaning "the more the better." A more junior staffer stated that it was case dependent: if the issue were routine, then routine noticing was good, but if the issue were not routine then more noticing was warranted. That staffer noted that impartiality was even more important if extra noticing were done.

That staff member emphasized that the optic of being impartial and professional for a project could be compromised if sloppy, or one-sided extra noticing were attempted.

Finally, the Civil Grand Jury compared the State code for public noticing of hearings (CAL GOV Title 7 65091(A)) with the County's public noticing of hearings code (MCC 21.78.040.A). The State code has five sections, while the County's code, as mentioned above, provides seven conditions.

The Civil Grand Jury found that the County code matched the State code well. However, CAL GOV Title 7 65091(A) also includes a paragraph (5)(c), which states: *"In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable."*

This provision is absent from the County code. Its absence may not technically affect County considerations on public noticing, but the Civil Grand Jury concluded, based on the findings of this investigation, that adding this provision to County's code would be a constructive recommendation. The explicit inclusion of this provision would reaffirm to planners and to all public managers and staff that they do have flexibility or discretion to "over notice," if warranted. Doing more than just abiding by the seven conditions in MCC 21.70.040.A may be a necessary action.

The Civil Grand Jury not only concluded that public noticing as regulated by State and County code was ineffective, but that the required noticing methods simply will not work for rural communities like those in South County. Something more must be added.

For PLN 180317, the lack of effective public noticing was a significant contributing factor to the absence of public of awareness and public participation in South County for this tall, landscape-changing project.

The Civil Grand Jury concluded that including the above-referenced State code provision, coupled with explicit RMA Planning division encouragement to planners to make dynamic use of social media in rural environments serviced by LUACs, would not only be more public noticing, but would possibly be more effective public noticing. It would be a credible measure that could reach those missed by traditional methods.

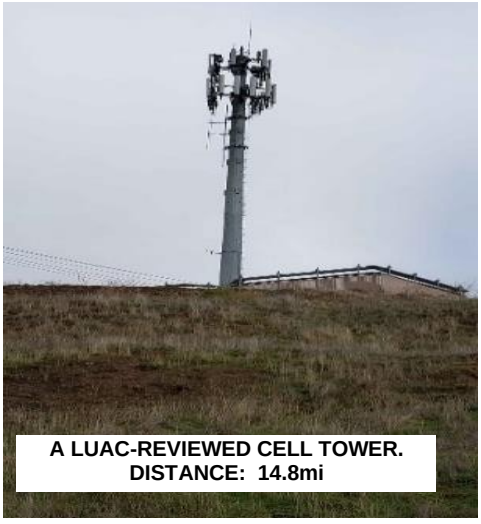
Finally, the Civil Grand Jury recommends that RMA Planning division encourage -- and support, applicants to conduct orientations, introductory town halls, or public meetings to socialize and explain significant projects and to gather positive suggestions and feedback in advance.

These steps were not done for PLN 180317, and the results left the community unaware of the project and unsatisfied with the results.

D. Confidence Eroding Measures (F7, F8, F9)

The Civil Grand Jury's review of PLN 180317 found misstatements and omissions. These compelled us to review what was being asserted and what the effects of those assertions were in this application. The Civil Grand Jury's concern centered on the understanding that for any public report, especially those being used to support administrative or quasi-judicial decisions, inaccuracies and omissions undermine the credibility of both the document and any decisions based upon that document.

In addition to mistakes concerning the South County LUAC and the botched analysis of the alternative site, other errors eroded the Civil Grand Jury's confidence in the staff report, and in this permitting process. Some (but not all) examples follow.



A LUAC-REVIEWED CELL TOWER. DISTANCE: 14.8mi

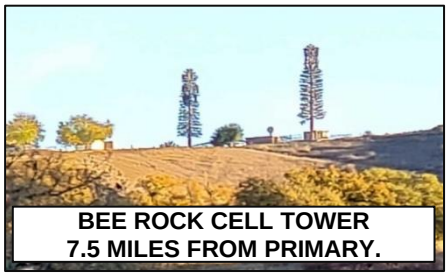
An observable error, missed in all supervisors' reviews of the Application, was the staff briefing's assertion that the nearest cell tower to the proposed site was about 17 miles away on Highway 101.

This was yet another inaccuracy in the application.

This seemingly trivial assertion was actually a significant misrepresentation of the South County local cellular topology.

Civil Grand Jury on-site inspections found that at least three cell towers were closer to the primary site than the reportedly “closest tower.” One dual tower (loc: 35.777661, -120.939351)[2] was only 7.5 miles from the primary site for this project. Others ranged between 10.4 miles (loc: 35.951913, -121.001724) and 14.8 miles (loc: 35.956399, -120.858729) distance. Civil Grand jurors noticed yet other towers in the local area, but after confirming that multiple towers existed that were between 13% and 56% closer than reported closest tower, the point was established.

The Civil Grand Jury determined that even this simple error had negative effects. It restricted any genuine consideration for alternative locations. It stifled genuine examination of existing local cell towers for comparative models of appropriate (or inappropriate) siting/ locations or designs. It also stimulated local puzzlement.



BEE ROCK CELL TOWER
7.5 MILES FROM PRIMARY.

The Civil Grand Jury interviewed several local residents who disagreed with the staff report’s assertion that no tower was closer than 17 miles. Several mentioned “the Bee Rock tower” (this tower also was mentioned in the October 25, 2018 public hearing).

The misrepresentation of the actual conditions on the ground in their community, especially to justify a project of which they had been unaware, fostered a sense of mistrust and doubt in some. Their suspicions focused both on the new cell tower and on RMA Planning. These attitudes and concerns were visible in part at the public hearing and corroborated later in subsequent Civil Grand Jury interviews.

For the Civil Grand Jury, the question was: how could planners prepare applications without ensuring their staff work was accurate?

One mitigating factor in this application that was considered by the Civil Grand Jury, but which did not justify such errors, was distance. RMA planners preparing PLN 180317 were 80 miles away from the site. The Civil Grand Jury could confirm only one planner

[2] For specified locations, this report uses Decimal Degrees (dd) and World Geodetic System, 1984 (WGS84) datum

visit to the site prior to the public hearing --and no supervisor visits until after the tower was built. The Civil Grand Jury did confirm that the planner visited the 17-mile distant ("closest") cell tower. This planner visit underscored the conclusion by the Civil Grand Jury that the requirement to understand a remote, rural area with plains, valleys, hills, rivers and badland–especially in the context of a major, area-changing local project, demands more than one quick or routine staff visit. Even the Civil Grand Jury required multiple trips to gain appropriate awareness of actual conditions on the ground.

The Civil Grand Jury determined that the appropriate and necessary level of local research and preparation was not done by RMA planners, and not required by RMA Planning managers. The Civil Grand Jury recommends creating or amending RMA Planning staff procedures to require more in-depth and early planner visits to remote rural areas, especially when significant projects are considered for those areas. Such visits must augment, not replace, LUAC recommendations.

Another example of significant error in the staff report for the Application was in the (required) Radiofrequency Electromagnetic energy (RF-EME) report. This report asserted: "There are no microwaves installed at this site" (Exhibit F, page 10). This, too, was false.



PLN 180317 Microwave Dish Antenna

In the RMA-prepared application package, just a few pages back from the RF-EME report's assertion, the draft Resolution noted that the tower had one microwave dish antenna (Exhibit C, Draft Resolution para.1). The Civil Grand Jury investigators confirmed its presence after construction.

The Civil Grand Jury recognized that microwave dish antennas, like other highly directional antennas, have relatively little contribution to effective radiated power (ERP).[3] However, FCC guidance[4] also states that all but categorically excluded devices

[3] FCC OET65. 1 Aug 1997. pp. 26-27.
[4] FCC OET65. 1 Aug 1997. pp. 32-33; 47 (CFR) § 1.1307(b) & (b)(1) and Table 1

and sites are to be included in computing compliance. The microwave dish antenna was not an excluded device.

The RF-EME report for the Application simply did not model or compute the MPE levels for this microwave dish antenna.

Not only was this a careless approach that was missed by planners and Planning managers alike, it also did not conform with a sample of recent RF-EME reports from around the State that the Civil Grand Jury reviewed for comparison. In those reports, the Civil Grand Jury found that including microwave dish antennas (where they existed) was a common reporting practice.

The Civil Grand Jury also discovered that MPE computations for microwave dish antennas cannot be done by using (most) modeling software. If the microwave had been included, its effects typically would have to have been manually computed. (Staff Report, Exhibit F page 10 (note); FCC OET65,1997, pp. 44,50)

What is a Radio Frequency Electromagnetic Energy (RF-EME) Report?

An **RF-EME** evaluation is a compliance certification required by 47 CFR Parts 1, 2, and 15, et al. Ch 1. § 1.1307(b).

New, modified, and renewing wireless communications facilities must prepare an environmental assessment (EA) for **radio frequency electromagnetic energy** (RF-EME) exposure, and certify that the effective radiated power (ERP) of a facility complies with FCC limits for human exposure (maximum personal exposure/ **MPE)** to radiofrequency radiation (IAW 47 CFR §§ 1.1310 and 2.1093).

Some equipment (sites) have categorical reporting exclusions. Generally, all transmitters of a facility must be included (47 CFR §1.1307(b) & (b)1).

The Civil Grand Jury found this initial RF-EME report concerning because it missed one antenna and failed to include radiation power data from that antenna in calculating MPE levels for the site. The Civil Grand Jury also concluded that no careful review of this report was made by RMA planners, RMA Planning managers, or even the Zoning Administrator in reviewing and approving this project. It was one more element that weakened, rather than reinforced public trust in the Application process.

The final or operational RF-EME report reviewed by the Civil Grand Jury provided a better result. That report directly measured (not modeled) the emissions on the now-operational site (See appendix B). It also provided details on all antennas, except for the

microwave dish antenna. (The RF-examiner who prepared that report noted its presence, but knew nothing about it, beyond the visual identification of its height on the tower.) Because the emissions data were measured for the entire site, the results this time did include that microwave dish.

The actual results were (predictably) within FCC required guidelines and close to those provided in the (incomplete) initial RF-EME report. (see Table One)

Table One
PLN 18-0317 RF-EME Reports
(before approval & post operational)

RF-EME Report	FCC general public limit	FCC occupational limit
BEFORE: 06-15-2018[1] (modeled /ground level)	3.20 % of the limit	0.64 % of the limit
AFTER: 02-04-2020[2] (measured /ground level)	2.2370 % of the limit	0.7111 % of the limit
(1) See Appendix A **(2) See Appendix B**		

While the Civil Grand Jury was reassured by the confirmation of the cell tower's compliance, we cannot endorse or validate an incomplete approach toward technical safety, especially when it was used to support decisions for such a significant project.

The Civil Grand Jury recommends inclusion of a post operational RF-EME survey by a certified RF engineer and at applicant expense for all Cell towers planned or approved by the County as a best practice. This survey should be included as a condition of approval or updated into MCC 21.64.310 as an element in the wireless communications facilities code.

E. Considering Local Views and Character (F6, F10)

The Civil Grand Jury concluded that the staff report for the Application deflected meaningful consideration on the appropriateness of the proposed cell tower's location with its references to "*designated public viewing areas*."

In both the staff report ("*There is no designated public viewing area, scenic corridor, or any identified environmentally sensitive area or resources.*" page 3) and in the draft resolution ("*The project will not significantly affect any designated public viewing area, scenic corridor or any identified environmentally sensitive area or resources."* page 4) the absence of a designated public viewing area was a characteristic used to reinforce the validity of the primary site.

The term "designated public viewing area" appears as a standard condition for approval on RMA Planning land use applications. However, it was not defined in any of the County current references that were made available to the Civil Grand Jury.

This was puzzling, and when asked by the Civil Grand Jury, RMA Planning managers and planners could not point to any official County definition for "designated public viewing areas" in any County references. This is significant.

In contrast to "designated public viewing areas," the County code has *special terms* like "scenic corridors," "environmentally sensitive areas," and "historical districts." All these are specific terms with specific meanings. These terms are carefully used to deny, or to shape how projects can be placed in certain areas.

After concluding staff interviews, and reviewing all code and area plans for the County, the Civil Grand Jury determined that the term "*designated public viewing area*" was being used like the above-mentioned *special terms*. For PLN 180317, since Hesperia Road and other nearby roads were not recorded as "*designated public viewing areas*," the placement of the cell tower, even at its 120 feet in height, would be less problematic. After reviewing other parts of the County code, however, the Civil Grand Jury disagreed with this connotation.

The Civil Grand Jury looked at MCC 21.06.195, which defines *"Common public viewing areas."* Public viewing areas are: "*a public area such as a public street, road, designated vista point, or public park from which the general public ordinarily views the surrounding viewshed."*

Based on MCC 21.06.195, the Civil Grand Jury identified a public viewing area approximately 16 feet in front of the tower's location. It was (and is) the named public road --Hesperia Road. In addition, the Civil Grand Jury identified public viewing areas on nearby Smith Road and on nearby Bryson-Hesperia Road. All were common public viewing areas. (But the private property in the same area was not–this applies only to public areas.)

The Civil Grand Jury determined that, instead of using an unreferenced term found only on RMA Planning approval forms (designated public viewing areas*),* it would have been more appropriate, and better conforming to Monterey County Code, for the RMA planners and Monterey County approving officials to have applied the standard found in MCC 21.64.310 H 1.e. This standard requires that cell towers be "…screened from any *public viewing areas* to the maximum extent feasible" (emphasis added).

The Civil Grand Jury concluded that, to comply with this section of the County's Code, this cell tower should have been located, to the maximum extent feasible, in a screened location. Based on Civil Grand Jury onsite investigations, this may have been possible on another portion of the primary site property, but it was extremely likely, had the (larger) alternative site been considered. This diligence to the code was not done at any level by RMA Planning and does not appear to have been earnestly considered in review as well.

The staff report (page 3) for PLN 180317 further suggested that the camouflage on the tower would suffice. It noted: "*Where visible, the mono-eucalyptus would appear in character with the surrounding mature trees and would not be easily recognizable as a wireless communications facility*."



HESPERIA ROAD VIEWSHEDS TWO VIEWS:
FACING AWAY & FACING TOWARD THE CELL TOWER

This was another inaccurate assertion.

The Civil Grand Jury considered this staff report judgment in the context of grand jurors' on-site examinations at different locations in the area, local area photos, and observations provided by local residents who were interviewed.

All these perspectives unanimously rejected the premise that the cell tower was "in character" with any of the surroundings. The Civil Grand Jury also rejected the proposal that the cell tower would not be "*easily recognizable as a wireless communications facility.*" The Civil Grand Jury was puzzled how an official County report, especially one used by decisionmakers for a project, could proffer so blatant a misstatement.

The Civil Grand Jury then inquired into how this location, and the final design, were managed and decided during the application process.

The results of Civil Grand Jury interviews with RMA personnel on this aspect provided mixed insights. Some dismissed questions about the location, because they believed it was the only acceptable location for the applicant. Others appeared sensitive to this miscalculation but tendered few thoughts. Yet others in the RMA Planning division provided indifferent replies to the question.

The Civil Grand Jury's conclusion on the siting / location for the PLN 180317 was that an inappropriate location was approved by the Zoning Administrator. The location was inappropriate because, as situated and designed, the proposed cell tower failed to meet multiple site and design conditions of MCC 21.64.310 including: E.2 (has local citizen input on impact and alternative sites), H.1a (preserve visual character, aesthetic value of parcel and surrounding land), H.1c (not sited to create clutter & negatively affect specific views), H.1d (designed to minimize visual impact), H.1e (screened from any public viewing areas), H.2d (designed to mitigate potentially significant adverse visual impacts), and J.3 (complies with all applicable requirements of 21.64.310).

As a result of these multiple failures to comply with MCC 21.64,310's guidance and direction for design and siting, this application did not meet a required finding for Use Permits as listed in MCC 21.74.050.B.1 (will not be…detrimental or injurious to property and improvement in the neighborhood.). As proposed, this application should not have been approved.

The Civil Grand Jury determined that this primary site location, an inappropriate location, was permitted by RMA Planning in part because of a lack of technical expertise by some planners, in part because of a lack of RMA Planning manager sensitivity to the magnitude of this project in relation to the rural Hesperia plain, and finally, in large part, because of the failure to consider the alternative site as discussed in a preceding portion of this report.

At least two of those miscalculations, local insensitivity and alternative site considerations, could have been lessened by sending this application to the South County LUAC, where it would have been reviewed for design and local considerations—including location.

The Civil Grand Jury, however, did discover that a positive outcome was mined from these challenging circumstances.

RMA Planning managers seized on the presence of the final cell tower itself as an example of the difference between how a project develops or appears in an application, or in the RMA planner's office, and how a project truly appears, or turns out on the ground.

In early September 2019, these managers conducted a staff visit to the cell tower site with all RMA planners. This staff site visit was not to blame or investigate, but to teach and share the lessons that all planners must learn if they are to manage projects that influence communities and affect environments.

However, by making PLN 180317 into a cautionary tale for learning, the RMA Planning managers were implicitly validating the scale of errors that were made in approving this cell tower's location and design. The Civil Grand Jury recognizes that future benefits likely will accrue to South County and other County communities and applicants by these managers' initiative.

Yet, the Civil Grand Jury must also highlight that the inability of RMA Planning to remedy this current cell tower's negative effects on both the rural character and aesthetic charm of the Bryson-Hesperia area will carry on into the future as well.

F. RMA Planning (F8, F9, F10, F11, F12)



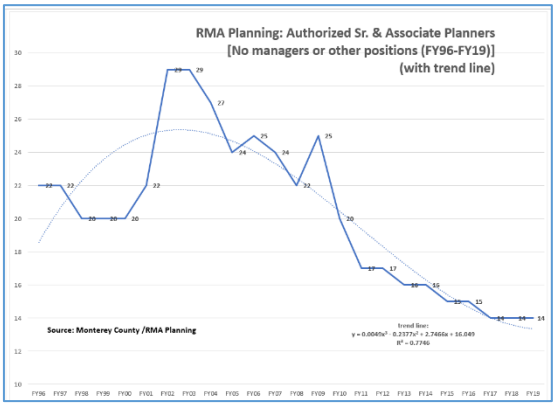
RMA PLANNING - THE PERMIT COUNTER

In investigating PLN 180317, the Civil Grand Jury also reviewed the organization of RMA Planning's Current Planning division, with an emphasis on the planners.

This division is "responsible for reviewing land use and development proposals and permit requests for consistency with the County's adopted land use policies and regulations and taking the appropriate action on these requests." The major portion of the division's complex and varied work is performed by Land Use Planners, commonly called planners.

The Planner Position

RMA Planning has three classifications for planners: Senior Planners, Associate Planners, and an Assistant Planner. RMA Planning manages these planner positions under two planner authorizations: Senior Planners or Associate Planners. The authorized numbers for each position vary year to year. The Civil Grand Jury found that the trend for authorized (combined) planner numbers has been nothing but downward since 2009.



RMA PLANNING (COMBINED) PLANNER AUTHORIZATIONS BY FISCAL YEAR

Planner workloads, however, appear high. At the time of PLN 180317 (and now) each planner was responsible for a large number of applications. Civil Grand Jury research suggests that, in 2018 (and currently), each planner had on average between 50 and 100 open applications on their desk at any one time throughout the year. Planners personally managed each of these applications through the entire approval process.

At the time when PLN 180317 was submitted (June 15, 2018), RMA Planning had 13 on-hand planners against an authorization for that year of 14 planners (not counting supervisory managers, or other staff). This was 93% of the authorization, and the average experience level for planners was about five years and seven months.

Superficially, these figures appeared sound. However, a qualitative look by the Civil Grand Jury was disconcerting.

The on-hand number (13) of planners was only 76% of RMA Planning's 10-year average planner authorization (17). Moreover, the on-hand number was only 44.8% of RMA Planning's previous high authorization year (2003) for planners. In that year, RMA Planning was authorized 29 planner positions. The numbers suggested that RMA Planning was doing more with fewer "rubber-meets-the-road" planners.

The Civil Grand Jury's qualitative review of the current cadre of planners revealed an even more troubling truth: On June 15, 2018 (when PLN 180317 was submitted), five planners, or 38% of all RMA planners, had been in RMA Planning less than 90 days. The number of planners authorized for RMA Planning was not only the smallest number in 23 years, but it also appeared to be a time of one of the least locally experienced cadres.

Nonetheless, when the Application was submitted, RMA Planning managers could have assigned this cell tower application to one planner with 23 years of experience. Alternately, they could have selected a planner with 15 years, 13 years, 11 years, or even 4 years of experience. Those were RMA Planning's five locally experienced planners.

Instead, RMA Planning managers assigned the Application, a cell tower application in one of the most remote and rural parts of county, to one of the newest planners in the division. That planner, an Associate Planner, qualified by prior planning experience elsewhere, had worked only 74 days in this County when assigned this cell tower application.

The Civil Grand Jury assessed that, based on local experience, the planner choice for this application was an error in judgement by the managers.

The Planning managers made two misjudgments: (1) that cell towers, which had accounted for less than 10 of the thousands of permits processed during the years surrounding this application, were routine projects and (2) that local experience was a

minor qualification in assessing the appropriate assignment of a complex land use application for a remote rural community with scenic views and a unique character that were little changed since the area was settled hundreds of years earlier.

The Civil Grand Jury determined that RMA Planning managers' misjudgments directly fostered the environment for the defective results of PLN 180317, including the inappropriate choice of cell tower location, and the inadequate cell tower design for the local environment.



BRYSON - HESPERIA BEFORE

The Civil Grand Jury also found that RMA Planning division, managers and planners, made no mindful effort, beyond the routine noticing mentioned above, to ensure that the community was even aware of this upcoming major project. On the contrary, RMA Planning division eschewed a necessary review by the South County LUAC for this tower (as detailed in preceding sections). RMA Planning managers and planners did not anticipate, or appear concerned about, local input and reactions to the project. That was the case until the District Three Supervisor requested their presence in a meeting with the community in Hesperia Hall on August 28, 2019.

The RMA Planning Permit Application

In addition to the organization, the Civil Grand Jury also examined RMA Planning's "application checklist for land use and development application" for this type of project. The application is long, approximately 13 to 15 pages. The application also included

(then and now) different project add-on sections for various types of projects, including an add-on segment for processing cell tower applications. The basic document was flexible and comprehensive. However, the add-on segment for processing cell tower applications was (and is) out of date.

In RMA Planning, regardless of whether a cell tower Use Permit request is for a standard big tower, a classic colocation, a (new) small facilities request, a small facilities colocation, a distributed antennas system (DAS), or even a Section 6409(a)/eligible facilities request, the application form add-on sections were exactly the same.

Moreover, the form had no provisions to track any of the four current FCC shot clocks (two at the time of the application), or to manage the FCC's unique application processing rules that determine the start time for an application's processing clock (not the jurisdiction). The cell tower add-on to the application form also did not account for FCC "one-pass" rules that permit jurisdictions just one short window to identify *all* errors for a cell tower application after submission.[5]

Adjusting and processing a cell tower application for all of these differences was (and is) simply done ad hoc by each planner. This can happen only if that planner understands the different applicable conditions.

The Civil Grand Jury concluded that using an application with "stale" or out of date wireless communications facility add-on elements increased planner confusion. This condition also denied the planner currently available, and essential, information that could have given the planner more situational awareness of what could and could not be adjusted in processing PLN 180317. The Civil Grand Jury further concluded that this limited technical experience could have been overcome or lessened if the planner had access to a consultant to help review and to advise on technical issues for the Application.

[5] FCC 47 CFR Part II. Third Report and Order.(Oct.15, 2018). paras 44-76 pp.51873-78

External Expertise

Unlike many jurisdictions, Monterey County wireless code (MCC 21.64.310) does not include provisions for planners to request external consultants to aid on technical issues or challenges *at applicant expense*. The Civil Grand Jury noted that RMA Planning has directly engaged consultants under certain circumstances; but in response to Civil Grand Jury questions, some RMA personnel seemed surprised that, as a matter of approval conditions or even in the local code for some jurisdictions, RF engineers or similar consultants for wireless communications facilities issues could be planned for and provided at applicant expense.

The Civil Grand Jury determined that for PLN 180317 no external contractor/expert supported the review of this application. Also, if an RMA planner had required external technical support, it would be an extra cost, and one not able to be passed to the applicant while processing the application.

The Civil Grand Jury concluded that, at the time of the Application, RMA planner high work volume, plus the complex nature of the (cell tower) requirements, plus an uneven understanding by planners of the range of FCC and state policies concerning cell towers, local character and aesthetics, were significant factors that contributed to the approval of a cell tower design and location that remains unacceptable to most if not all of the Bryson Hesperia Community.

G. RMA Planning Managers (F12)

RMA Planning managers were identified earlier in this report as a second point of failure (for the LUAC issue), and for their suboptimal decision in assigning PLN 180317. However, this report also noted their professionalism, when they seized the initiative to turn the wrongly placed tower into a teachable moment. They also must be credited for being resilient and sensitive to community feedback on the Application in another way.

As was mentioned in preceding sections, when RMA Planning managers met with local residents to discuss the Hesperia Road cell tower, those managers agreed that they

had mistakenly failed to pass the Application to the LUAC. These managers also offered some technical considerations that the community could consider for future applications for cell towers in the area. They also offered to try and work with the applicant to adjust the tower's appearance to make it more appealing, or less unappealing, to the community.

Local residents interviewed by the Civil Grand Jury all stated their appreciation for the opportunity to contact and dialogue with RMA Planning managers. However, these managers' advice, and the options they proffered to that community were viewed as technical and somewhat confusing. The practical value of the suggestions provided was questioned by some. In the end, the cell tower was never improved or changed at all.

Even so, RMA Planning managers still had some outreach actions ongoing with that South County community while this Civil Grand Jury investigation was being conducted.

On the other hand, the Civil Grand Jury investigation also revealed that these RMA Planning managers personally accepted the challenges and complaints from that South County community. They returned to their offices and conscientiously applied technical and managerial skills internally to ensure that RMA planners would be better. . . or at least not get into the same situation again.

Quantifiable metrics for this aspect are unavailable but Civil Grand Jury interviews from all directions—managers, planners, and others, provided some qualitative observations. These interviews suggested that RMA Planning managers personally sought first to reshape planner views on how the LUACs are incorporated into RMA Planning actions. Second, RMA Planning managers also appear to have intensified their own scrutiny and attention to detail for reviewing new applications, particularly those concerning cell towers. Finally, they reportedly have used in-meeting and post-meeting discussions with their planners to sensitize planners to the importance of their actions, and the value of doing their work well.

The most visible manifestation of this effort was mentioned above —the RMA Planning managers' staff visit to the cell tower site. A second confirmation of this intent is

ongoing still. It is another cell tower permit (PLN 190347) requested for a different area in the South County community. The Civil Grand Jury reviewed the process being applied to that application and noted that this new application already has gone to the SC LUAC for review. RMA Planning processing steps were found to be methodical if not timely. Yet a careful planner review of all elements, including the proposed alternative site, seems to characterize that application so far. RMA planning managers and the planners should be recognized for moving forward from this initial, regrettable Application situation. Their efforts to apply higher standards and to stress community-focused service in their complex work is an important measure to reassure our community that the manner in which RMA Planning processed PLN 180317 was an unfortunate exception.

H. Investigation Final Comment and Recommendations

This Civil Grand Jury investigation report concludes with comment and 11 recommendations. The failures of PLN 180317 to deliver a cell tower to an appropriate site in South County, or to seek any public support for that tower, was an avoidable outcome due to a breakdown in the standards of the RMA Planning permit process. However, two aspects lessen this otherwise defective result.

First, future towers in the South County area will have better attention, an inclusive process, and wise community input. Second, the Bryson Hesperia locale has more wireless connectivity today. This may be a bitter thought to some right now, but it also may be of vital help to both residents and travelers, who may find themselves in need of assistance.

FINDINGS

F1: The “gap-in-service” nature of this cell tower Use Permit request meant that a facility in some location in this South County area was required to be approved in order to comply with 47 U.S. Code §332. (c)(7)(b)(ii)).

F2: The difference between the Board of Supervisors' Resolution 15-043 No.7 April 28, 2015 use of the name "Bradley-Parkfield LUAC" and the Monterey County official Website use of the name "South County LUAC" for the same LUAC, created confusion that contributed to an RMA planner's misunderstanding about the South County LUAC.

F3: The RMA Planning draft resolution and briefing for the Application both inaccurately asserted that (1) South County had no LUAC, and (2) that the Application did not need to be sent to the LUAC for review. These errors denied a required hearing and stifled public voice on design and local considerations for a large, visible project.

F4: The Application's one-sentence dismissal of the alternative site, *"Unfortunately, due to the mountainous terrain access and road constraints the proposed site was not physically feasible for the construction of the proposed tower"* was incorrect. As a result, a constrained and inappropriate site selection was approved.

F5: The RMA Planning public hearing notices for this project complied with State and County code, but were structurally ineffective in providing the local community with reasonable awareness of the significant project being proposed for their South County community.

F6: The approved cell tower failed to meet multiple site and design conditions of MCC 21.64.310 including:
E.2 (has local citizen input on impact and alternative sites),
H.1a (preserve visual character, aesthetic value of parcel and surrounding land),
H.1c (not sited to create clutter & negatively affect specific views),
H.1d (designed to minimize visual impact),
H.1e (screened from any public viewing areas),
H.2d (designed to mitigate potentially significant adverse visual impacts), and
J.3 (complies with all applicable requirements of 21.64.310).

As a result of these multiple failures, this application did not meet a required finding for Use Permits as listed in MCC 21.74.050.B.1 (will not be…detrimental or injurious to property and improvement in the neighborhood.) and should not have been approved.

F7: RMA planners were not diligent or accurate in how they determined, validated, and used certain facts, descriptive information, and technical data in the Application. This damaged the credibility of the Application and undermined local trust in the competence and the fairness of RMA Planning.

F8: RMA Planning staff's limited expertise in wireless communications facilities' policies, regulations, and rules, plus RMA planner confusion on the applicability of County standards for aesthetics and visual character, were contributing factors to the siting and design of the cell tower in a manner unacceptable to the Bryson Hesperia Community.

F9. Monterey County wireless communications code (MCC 21.64.310) lacks provisions to permit staff to secure outside experts, at applicant expense, when needed. This code omission limited planner resources and flexibility to overcome the technical challenges with this application. It reduced RMA Planning staff's ability to process the Application in a thorough, professional manner.

F10: RMA Planning's site visit procedures for planners did not adequately account for area and community differences in the County. They also were not formalized. Planner site visits at the time of this application did not require any pre-orientation to highlight area-specific factors. These shortfalls reduced RMA planners' ability to understand actual conditions, effects, and the significance of the Application on the South County community.

F11: RMA Planners' high work volume, plus the complex nature of processing a cell tower application, also were significant contributing factors to the siting and design of the cell tower in a manner unacceptable to the Bryson Hesperia Community.

F12: The wireless communications facility supplemental add-on portions to RMA Planning's land use development application form were out of date. These add-ons lacked essential, contemporary elements to account for current wireless communications facility types, new FCC application handling requirements, FCC shot clocks, and FCC shot clock tracking/ tolling methods. This increased planner confusion and created a lack of information needed to facilitate planner processing of the Application in a thorough and professional manner.

F13: RMA Planning managers displayed a high degree of internal responsiveness in reaction to the August 28, 2019 meeting in South County about the cell tower. Their subsequent actions were not visible to the community, but represented a quiet, positive example of professional and effective responsiveness to the community's concerns.

RECOMMENDATIONS

When the 2019/20 Civil Grand Jury began our investigations, COVID-19 had not yet become a public health crisis. However, as we conclude our reports, we are tasked to specify a time frame within which to address our recommendations. We have done so, attempting to allow some extra time, given the current situation. We ask the County Supervisors, Departments, Cities, and Special Districts responsible for enacting our recommendations to do their best to accomplish these goals as expeditiously as possible, given the effect of the current pandemic crisis on staffing availability.

R1: The RMA Services Manager should review and improve the RMA Current Planning division's work practices for RMA planners and Planning managers. Critical thinking, attention to detail, and higher professional standards must be imbued into the RMA Planning process. When County Code directs higher levels of decision making, RMA Planning should require assigning higher level, more experienced planners and higher-level supervisors to prepare and review those applications. (F3, F7) **This review should be completed no later than 90 days after the publication of this report.**

R2: The Director of RMA should investigate whether the erroneous description of PLN 180317 alternative site's conditions, as provided to RMA Planning in support of that application, constituted "false material information," as the term is used in Monterey County Code 21.70.070 (Revocation). Director RMA should then determine if action in accordance with that code is appropriate or necessary for PLN 180317. (F4) **This investigation and determination should be completed no later than 90 days after the publication of this report.**

R3: The Board of Supervisors should revise the Resolution that establishes and provides guidance to the County Land Use Advisory Committees (LUAC), the "LUAC Guidelines," to update Exhibit B. Stop using the "Bradley-Parkfield" LUAC name and start using the "South County" LUAC name. This will accurately reflect the change that was made to that LUAC in August 2008 and implemented in January 2009. (F2, F3) **This revision should be completed no later than six months after the publication of this report.**

R4: The Board of Supervisors should revise Monterey County Code, to include a set of *Design Guidelines* that empower planners and decision makers to make land use decisions that comply with federal and state regulations, meet applicant needs, yet can still preserve Monterey County's character in rural and suburban environments. Design Guidelines should be both developmental standards and criteria for character and aesthetics. The Design Guidelines should be applicable to both wireless communications facilities and a wide range of other infrastructure developments. The Design Guidelines should augment existing Monterey County code, including Monterey County Code 21.64.310 (Wireless Communication Facilities). (F6) **This revision should be completed no later than 24 months after the publication of this report.**

R5: The RMA Services Manager should develop explicit guidance to ensure public hearing noticing for significant projects in Monterey County's rural environments include other means in addition to those listed in Monterey County Code 21.70.040.A (Public Notice Required). This guidance should identify the

appropriate social media and local micro-resources that are active in the rural community where a significant project is planned. (F5) **This guidance should be completed and operational no later than 90 days after the publication of this report.**

R6: The Board of Supervisors should revise Monterey County Code 21.70.040.A (Public Notice Required) to include the following provision from California Government Code Section 65091(A)(5)(c): "In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable." (F5) **This revision should be completed no later than 24 months after the publication of this report.**

R7: The RMA Services Manager should develop explicit guidance to encourage and support applicant-sponsored town halls or orientations for rural communities where significant projects are planned. These events should be in advance of, or early into the application process. (F5) **This guidance should be completed and operational no later than 60 days after the publication of this report.**

R8: The RMA Services Manager should revise the RMA land use request application supplemental add-on for wireless communications facilities. The revision should account for the different types of facilities, the current rules for accepting and correcting incomplete applications, and add provisions to identify and track the appropriate shot clock in the application --as an automated ongoing function. (F12) **This guidance should be completed and operational no later than 12 months after the publication of this report.**

R9: The Board of Supervisors should revise Monterey County Code 21.64.310 (Wireless Communication Facilities) to include a provision that permits County staff to secure outside experts, at applicant expense, to support technical considerations or issues attendant to processing of wireless communications facilities when required. (F8, F9) **This revision should be completed no later than 24 months after the publication of this report.**

R10: The Board of Supervisors should revise Monterey County Code 21.64.310 (Wireless Communication Facilities) to include a provision that requires a post-operational RF-EME survey to be conducted by a certified RF engineer selected by the County but at applicant expense, when any wireless communications facility first becomes operational or has its Use Permit renewed. (F8, F9) **This revision should be completed no later than 24 months after the publication of this report.**

R11: The RMA Services Manager should develop a planners' training and operations standard operating procedure (SOP) for RMA Current Planning division, supplemental to any County or RMA employee handbook. This SOP should articulate (1) required planner and staff tasks and coordination, (2) required standards of performance, (3) division routines and site visit procedures, (4) planner-specific professional knowledge goals, and (5) note funded and optional planner-specific training and professional development opportunities. (F7, F10, F11) **This guidance should be completed and operational no later than 12 months after the publication of this report.**

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Civil Grand Jury requests responses from the following governing body within 90 days:

- Monterey County Board of Supervisors: respond to All Findings and Recommendations within 90 days.

INVITED RESPONSES

- The Director of Monterey County RMA: Respond to F4 and R2
- The Monterey South County LUAC: Respond to F2-F6 and R2, R3, R5, R6, R7

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Civil Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

APPENDICES

A. PLN 180317 Report Package (abridged)

B. Final RF EME Report for PLN 180317

C. LUAC Guidelines (abridged)

D. APN and Topographic Maps of Primary and Alternative sites

E. Photo Credits

APPENDIX A

THIS APPENDIX INCLUDES ONLY ABRIDGED PORTIONS OF DOCUMENTS.

PLEASE REFER TO ORIGINAL SOURCES FOR COMPLETE COPIES OF ALL DOCUMENTS

APPENDIX A - STAFF REPORT FOR PLN 180317

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

October 25, 2018

Introduced: 10/15/2018 **Current Status:** Agenda Ready
Version: 1 **Matter Type:** ZA

PLN180317 - ZAMORA (AT&T WIRELESS)
Public hearing to consider Use Permit to allow the installation of a 120-foot tall wireless communication facility disguised as Eucalyptus tree.
Project Location: 76310 Hesperia Road, Bradley (Assessor's Parcel Number 424-051-065-000), South County Area Plan
Proposed CEQA action: Exempt per 15303 of the CEQA Guidelines construction and location of limited numbers of new, small facilities or structures.

RECOMMENDATION:
It is recommended that the Zoning Administrator:

a) Find the project in the installation of a new wireless communication facility, which qualifies as a Class 3 Categorical Exemption per Section 15303 of the CEQA Guidelines (New Construction or Conversion of Small structures), and there are no exceptions pursuant to Section 15300.2; and

b) Approve a Use Permit to allow the installation of a 120-foot tall wireless communication facility disguised as Eucalyptus tree, and associated equipment consisting of twelve (12), six foot tall panel antennas, twenty two (22) remote radio units, four (4) DC surge compressors, one (1) microwave dish antenna, and one (1) back-up Diesel Generator with a 900 square foot leased area enclosed by a seven foot high wooden fence.

The attached resolution includes findings and evidence for consideration (**Exhibit C**). Staff recommends that the Zoning Administrator adopt the resolution approving PLN180317 subject to nine (9) conditions of approval.

PROJECT INFORMATION:

Agent: Tom Johnson, AT&T Wireless
Property Owner: Gloria J & Jose L Zamora
APN: 424-051-065-000
Parcel Size: 44.7 acres
Zoning: RG/40 (Rural Grazing/40-acre minimum)
Plan Area: South County Area Plan (Non-Coastal Advisory Committee)
Flagged and Staked: No

SUMMARY:
The applicant (Tom Johnson), representing AT&T Wireless, is requesting approval of a Use Permit to construct and operate a wireless communication facility camouflaged as a 120-foot mono pole eucalyptus tree, and associated equipment. The proposed AT&T wireless facility will be located at the northwest boundary of the subject parcel lot Access Parcel Number 424-051-065-000 west of

Hesperia Road and will include a 900-square foot leased area enclosed by a seven foot high wooden fence.

AT&T's objective in locating a wireless communication facility on this site is to provide improved in-building and in-transit wireless coverage. The proposed Facility is necessary to close significant service coverage gap areas roughly bounded along Hesperia Road (**Exhibit E**). The proposed facility will provide coverage to the surrounding residential areas, including the agricultural areas that are present within this zone that currently have no AT&T mobile service.

DISCUSSION

Setting:

The property site currently has an existing single-family residential trailer structure on a 44.7+ acre(s) lot surrounded by grazing fields and open space lands. The project site is located on the northeast corner of the lot adjacent to Hesperia Road. The following table below identifies the land uses immediately surrounding the project site.

The project setting can also be seen in the following chart below for this Project Analysis:

Surrounding Land-Uses

Project Site	Land Use	Zoning	General Plan
North	Single-family unit/Open space	RG-40	Rural Grazing
South	Open space	RG-40	Rural Grazing
East	Single-family/Open space	RG-40	Rural Grazing
West	Single-family unit/Open space	RG-40	Rural Grazing

Once constructed and operational, the proposed facility will provide 24-hour service to customers seven (7) days a week. Apart from initial construction activity, an AT&T technician will only be servicing the facility on a periodic basis. It is reasonable to expect that routine maintenance/inspection of the facility will occur about once a month during working hours of 8 a.m. to 5 p.m. Monday through Saturday. Beyond this intermittent service, AT&T requires 24-hour access to the proposed facility to ensure that technical support is immediately available in the event of an emergency or natural disaster.

Location and Alternative Site Analysis:

The applicant evaluated an alternative site located at a 2570 Bryson Road, Bradley. Unfortunately, due to the mountainous terrain access and road constraints the proposed site was not physically feasible for the construction of the proposed tower. Therefore, the applicant selected the proposed location at 76310 Hesperia Road recommended by AT&T's Radio Frequency Engineer as the most appropriate site to accommodate their proposed wireless communication facility as described in the applicant's Project Description (**Exhibit D**).

Co-Location

There are no other wireless communication facilities stations at the site or nearby vicinity of the proposed project site. The proposed facility has been designed in a manner that will structurally accommodate additional antennas, and the applicant has submitted a statement to allow co-location in the future (**Exhibit D**).

Visual Resources and Design:

The site is relatively flat and has been historically been used for agricultural purposes. There is no designated public viewing area, scenic corridor, or any identified environmentally sensitive area or resources. As described, the applicant evaluated the feasibility of locating the proposed facility at nearby existing facilities, but could not provide the necessary coverage for the identified proposed coverage area. Generally, a wireless communications facility is not a use that is inherently compatible with the character of the surrounding rural grazing/ agricultural uses; however, the proposed project is a stealth design that would blend with the surrounding mixture of tall mature oak and eucalyptus trees.

The applicant submitted photo simulations (**Exhibit G**) of the standard monopole design as well as a mono-eucalyptus tree. Both options are attached to the staff report. The basic monopole design is visually obtrusive in comparison to mono-eucalyptus tree disguised blending with the existing rural setting and surrounding areas. As conditioned, the applicant will be required to provide specifications on the mono-eucalyptus to ensure that it is as natural appearing as possible. Where visible, the mono-eucalyptus would appear in character with the surrounding mature trees and would not be easily recognizable as a wireless communications facility.

As indicated on the Applicant's Project Information (**Exhibit D**); the project is proposing the development of a 120-foot tall wireless communication facility camouflaged mono pole eucalyptus tree. The proposed project complies with the Monterey County General Plan, Rural Grazing Ordinance (RG-40), Wireless Facilities Design Guidelines (Findings), and other development standards and design guidelines.

Radio Frequency

The applicant has submitted a Radio Frequency compliance report prepared by EBI Consulting Engineers on June 15, 2018 (**Exhibit F**). The report finds that the facility will comply with the Federal Communications Commission (FCC) and Occupational Safety and Health Administration (OSHA) standards for limiting public exposure to radio frequency energy, including the installation of all proper required (FCC) signage and/or barriers. The site is adequate for the proposed development of the wireless communication facility and the applicant has demonstrated that it is the most adequate for the provision of services as required by the (FCC).

CEQA EXEMPTION

The project is exempt from environmental review pursuant to Section 15303 of the California Environmental Quality Act Guidelines. The project is a small structure, which qualifies for a Class 3 Categorical Exemption per Section 15303 of the CEQA Guidelines and does not meet any of the exceptions under Section 15300.2. The project involves the installation to allow the installation of a 120-foot tall wireless communication facility disguised as Eucalyptus tree. Therefore, the proposed development is consistent with the parameters of this exemption. The technical reports prepared for the project do not identify any potential significant or cumulative impacts, and no evidence of significant adverse environmental effects was identified during staff review of the development application.

RECOMMENDATION

Staff recommends the Zoning Administrator approve the project. This recommendation is supported by the findings and evidence provided and conditions of approval in (**Exhibit C**).

OTHER AGENCY INVOLVEMENT:
The following agencies have reviewed the project, have comments, and/or have recommended conditions:

Environmental Health Bureau
RMA-Public Works
RMA-Environmental Services
Water Resources Agency
South County Fire Protection District

The proposed project was not referred to a Land Use Advisory Committee because there is no Land Use Advisory Committee for the South County Area.

Prepared by: Kenny Taylor, Associate Planner, x5096
Reviewed by: Brandon Swanson, RMA Planning Services Manager
Approved by: John M. Dugan, FAICP, RMA Deputy Director of Land Use and Community Development

The following attachments are on file with the RMA:

Exhibit A - Project Data Sheet
Exhibit B - Vicinity Map
Exhibit C - Draft Resolution including:
- Draft Conditions of Approval
- Project Plans

Exhibit D - Project Description/Coverage Justification
Exhibit E - Site Coverage Map
Exhibit F - Radio Frequency Compliance Report
Exhibit G - Photo Simulations

cc: Front Counter Copy; Zoning Administrator; Brandon Swanson, RMA Services Manager, Att&t Wireless, Agent; Tom Johnson, Owner; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Project File PLN180317

Radio Frequency – Electromagnetic Energy (RF-EME) Compliance Report

Site No. CCL03702
MRSFR038074, MRSFR035291, MRSFR030966
Zamora Property
76310 Hesperia Road
Bradley, California 93426
Monterey County
35.815161; -121.057758 NAD83
Monotree

The proposed AT&T installation will be in compliance with FCC regulations upon proper installation of recommended signage and/or barriers.

EBI Project No. 6218004453
June 15, 2018



Prepared for:

AT&T Mobility, LLC
c/o Vinculums
575 Lennon Lane, Suite 125
Walnut Creek, CA 94598

Prepared by:

EBI Consulting
environmental | engineering | due diligence

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APPENDICES

Appendix A Personnel Certifications
Appendix B Compliance/Signage Plan

Personal Communication (PCS) facilities used by AT&T in this area operate within a frequency range of 700-1900 MHz. Facilities typically consist of: 1) electronic transceivers (the radios or cabinets) connected to wired telephone lines; and 2) antennas that send the wireless signals created by the transceivers to be received by individual subscriber units (PCS telephones). Transceivers are typically connected to antennas by coaxial cables.

Because of the short wavelength of PCS services, the antennas require line-of-site paths for good propagation, and are typically installed above ground level. Antennas are constructed to concentrate energy towards the horizon, with as little energy as possible scattered towards the ground or the sky. This design, combined with the low power of PCS facilities, generally results in no possibility for exposure to approach Maximum Permissible Exposure (MPE) levels, with the exception of areas directly in front of the antennas.

2.0 AT&T RF EXPOSURE POLICY REQUIREMENTS

AT&T's RF Exposure: Responsibilities, Procedures & Guidelines document, dated October 28, 2014, requires that:

1. All sites must be analyzed for RF exposure compliance;
2. All sites must have that analysis documented; and
3. All sites must have any necessary signage and barriers installed.

Pursuant to this guidance, worst-case predictive modeling was performed for the site. This modeling is described below in Section 3.0. Lastly, based on the modeling and survey data, EBI has produced a Compliance Plan for this site that outlines the recommended signage and barriers. The recommended Compliance Plan for this site is described in Section 4.0.

3.0 WORST-CASE PREDICTIVE MODELING

In accordance with AT&T's RF Exposure policy, EBI performed theoretical modeling using RoofView® software to estimate the worst-case power density at the site rooftop and ground-level and nearby rooftops resulting from operation of the antennas. RoofView® is a widely-used predictive modeling program that has been developed by Richard Tell Associates to predict both near field and far field RF power density values for roof-top and tower telecommunications sites produced by vertical collinear antennas that are typically used in the cellular, PCS, paging and other communications services. The models utilize several operational specifications for different types of antennas to produce a plot of spatially-averaged power densities that can be expressed as a percentage of the applicable exposure limit.

For this report, EBI utilized antenna and power data provided by AT&T, and compared the resultant worst-case MPE levels to the FCC's occupational/controlled exposure limits outlined in OET Bulletin 65. For this report, EBI utilized antenna and power data provided by AT&T and compared the resultant worst-case MPE levels to the FCC's occupational/controlled exposure limits outlined in OET Bulletin 65. The assumptions used in the modeling are based upon information provided by AT&T and information gathered from other sources. There are no other wireless carriers with equipment installed at this site.

Based on worst-case predictive modeling, there are no modeled exposures on any accessible rooftop or ground walking/working surface related to ATT's proposed antennas that exceed the FCC's occupational and/or general public exposure limits at this site.

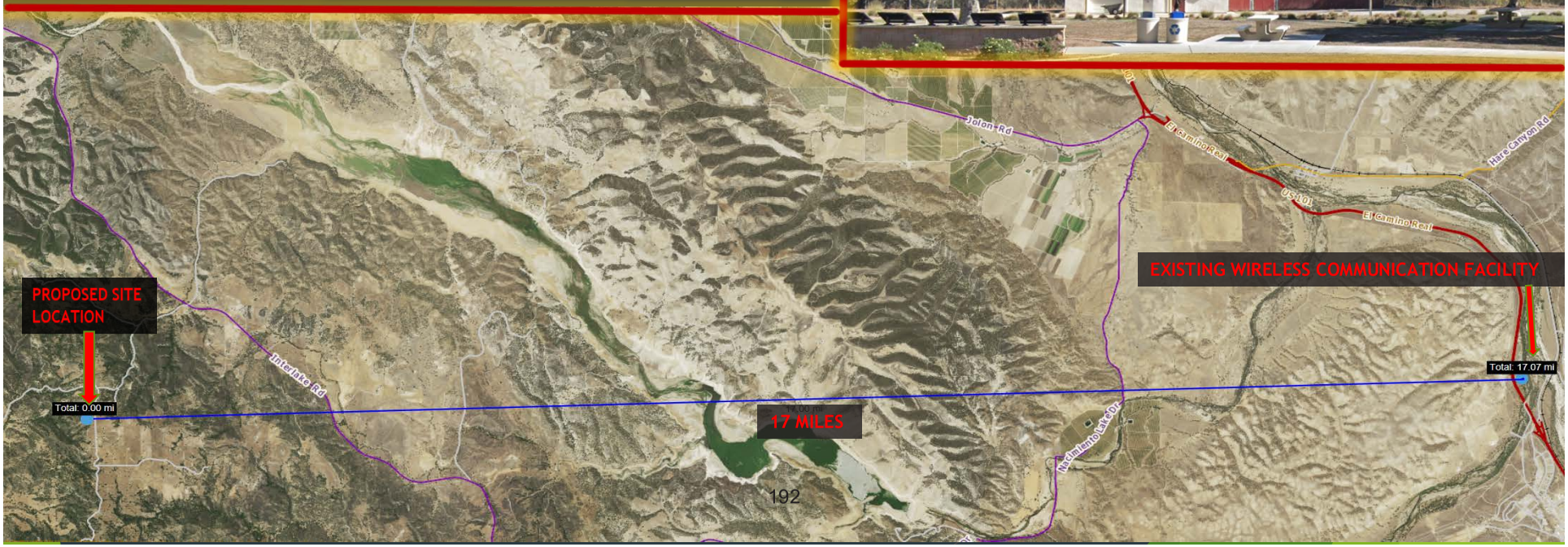
At the nearest walking/working surfaces to the AT&T antennas, the maximum power density generated by the AT&T antennas is approximately 3.50 percent of the FCC's general public limit (0.70 percent of the FCC's occupational limit). The composite exposure level from all carriers on this site is

approximately 3.50 percent of the FCC's general public limit (0.70 percent of the FCC's occupational limit) at the nearest walking/working surface to each antennaBased on worst-case predictive modeling, there are no areas at ground level related to the proposed AT&T antennas that exceed the FCC's occupational or general public exposure limits at this site. At ground level, the maximum power density generated by the antennas is approximately 3.20 percent of the FCC's general public limit (0.64 percent of the FCC's occupational limit).

A graphical representation of the RoofView® modeling results is presented in Appendix B. It should be noted that RoofView® is not suitable for modeling microwave dish antennas; however, these units are designed for point-to-point operations at the elevations of the installed equipment rather than ground-level coverage. Based on AT&T's RF Exposure: Responsibilities, Procedures & Guidelines document, dated October 28, 2014, microwave antennas are considered compliant if they are higher than 20 feet above any accessible walking/working surface. There are no microwaves installed at this site.

Co-location





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(FINAL) RESOLUTION FOR PLN 18-0317

Before the Zoning Administrator in and for the County of Monterey, State of California

In the matter of the application of:

ZAMORA (AT&T MOBILITY) (PLN180317)
RESOLUTION NO. 18 - 061

Resolution by the Monterey County Zoning Administrator:

1) Find the project is the installation of a new wireless communication facility, which qualifies as a Class 3 Categorical Exemption per Section 15303 of the CEQA Guidelines (New Construction or Conversion of Small structures), and there are no exceptions pursuant to Section 15300.2; and
2) Approve a Use Permit to allow the installation of a 120-foot tall wireless communication facility disguised as Eucalyptus tree, and associated equipment consisting of twelve (12), six foot tall panel antennas, twenty two (22) remote radio units, four (4) DC surge compressors, one (1) microwave dish antenna, and one (1) back-up Diesel Generator within a 900 square foot leased area enclosed by a seven foot high wooden fence. [PLN180317, Zamora (AT&T Mobility), 76310 Hesperia Road, South County Area Plan (Non-Coastal Advisory Committee) (APN: 424-051-065-000)

The Zamora (AT&T Mobility) application (PLN180317) came on for public hearing before the Monterey County Zoning Administrator on October 25, 2018. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

FINDINGS AND EVIDENCE

1. **FINDING:** **PROJECT DESCRIPTION** – The proposed project is a Use Permit to allow the installation of a 120-foot tall wireless communication facility disguised as Eucalyptus tree.

   EVIDENCE: The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN180317.

2. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

   EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
   - the 2010 Monterey County General Plan;
   - South County Area Plan;

- Monterey County Zoning Ordinance (Title 21)

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

b) The property is located at 76310 Hesperia Road, South County APN 424-051-065-000), South County Area Plan. The parcel is zoned RG/40, which allows wireless communication facilities with an approved Use Permit. Therefore, the project is an allowed land use for this site.

c) The project is located on a flat parcel which requires minimal grading. The project will not result in any impacts to biological or archaeological resources.

d) The project planner conducted a site inspection on August 9, 2018 to verify that the project on the subject parcel conforms to the plans listed above.

e) The project meets the intent of the Wireless Communication Ordinance in Monterey County Code as the monopole will provide collocation for future wireless sites and will minimize the potential for proliferation of individual wireless facilities.

f) The Zoning Administrator is the appropriate authority to hear and decide new wireless communication facilities that have no significant adverse visual impact from any public common viewing area, pursuant to Section 21.64.310. of Monterey County Code.

g) The project was not referred to a Land Use Advisory Committee (LUAC) for review because this project is located within the South County Area Plan, which does not have an established Land-Use Advisory Committee.

h) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN180317.

i) At the October 25th hearing, the Zoning Administrator gave RMA Planning Staff leave to approve alterations to the project as substantially conforming as long as there was no tree removal, ESHA disturbance, development on slopes, or other issues that would require additional entitlement. This direction was given with the intent of allowing staff to work with the applicant to possibly redesign the project, in an effort to move the tower farther back from Hesperia Road.

3. **FINDING:** **SITE SUITABILITY –** The site is physically suitable for the use proposed.

EVIDENCE:

a) The project has been reviewed for site suitability by the following departments and agencies: RMA- Planning, South County Fire Protection District, Parks, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

b) Staff identified no potential impacts to Biological Resources, Archaeological Resources, Soil/Slope Stability, or environmental constraints that would make the site unsuitable for the proposed wireless communication facility.

provisions for wireless facilities. The proposed facility will meet the FCC guidelines.

c) The development meets all applicable regulations for the establishment of wireless communications facilities (Chapter 21.64.310, Monterey County Code).

- The Wireless Communication Facility will not be visible from the highway and surrounding roads. The proposed facility is within the grazing agricultural fields approximately 17 miles west of Highway 101. The distance combined with the Eucalyptus design tree will minimize visual impacts. Pursuant to the 2010 General Plan and the South County Area Plan, the property is not located in a designated visually "sensitive" area, along a scenic corridor, or identified environmentally sensitive area.
- Other than height, the project is consistent with the Site Development Standards of the "F" Zoning District. The allowable height maximum of the area is 30 feet. The entitlement, a Use Permit, allows the proposed facility to exceed the height of the Rural Grazing Zoning District, upon approval by the Zoning Administrator.

d) The project meets all the minimum requirements of the Chapter 21.32 (RG-40) Zoning including County Code Section 21.64.310 Wireless Telecommunication Facilities as identified as part of the Conditions of Approval. Conditions have been incorporated that would reduce the visual impact and include further review of colors and exterior lighting, modifications in the event of technological advances, and maintenance and restoration of the site.

e) The project is consistent with Chapter 21.86 (Airport Approaches Zoning) and does not require review by the Monterey County Airport Land Use Commission. This project does not affect any aircraft zones identified in Section 21.86.040 of MCC and the proposed height is within limitations outlined in Section 21.86.060 MCC.

8. **FINDING:** **APPEALABILITY -** The decision on this project may be appealed to the Planning Commission.

EVIDENCE: a) Section 21.80.040 B of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Planning Commission.

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located on a hazardous waste site, near a scenic highway or historical resource. The project would not contribute to a cumulative impact of successive projects as there are no other wireless communication facilities in proximity to this project site.

d) See preceding findings and evidence.

7. **FINDING:** **WIRELESS COMMUNICATION FACILITIES –** The project is consistent with the required findings for the development of a wireless communication facility:

1) The project will not significantly affect any designated public viewing area, scenic corridor or any identified environmentally sensitive area or resources;
2) The site is adequate for the proposed development of the wireless communication facility and the applicant has demonstrated that it is the most adequate for the provision of services as required by the Federal Communications Commission;
3) The proposed wireless communication facility complies with all the applicable requirements of Monterey County Code section 21.64.310;
4) The subject property on which the wireless communication facility is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other provisions of Title 21 and that all zoning violation abatement costs, if any, have been paid, and
5) The proposed telecommunication facility will not create a hazard for aircraft in flight.

EVIDENCE: a) The development meets all applicable regulations of the wireless communications facilities Chapter. The project is sited in the least visually obtrusive location (Section 21.64.310.C.4, Zoning Ordinance). The area consists of and is predominantly surrounded by agricultural uses such as grazing open lands and scattered residential dwellings accessory structures such as barns. Due to the project location, surrounding rugged terrain, and existing mature trees, the proposed monopole will not be visible from Highway 101, County scenic roads, designated scenic areas, or critical viewsheds. The proposed facility is within the grazing agricultural fields approximately 17 miles west of Highway 101. Pursuant to the 2010 General Plan and the South County Area Plan, the property is not located in a designated visually "sensitive" area, along a scenic corridor, or identified environmentally sensitive area. The proposed monopole is consistent with the visual integrity of its surroundings because it is the most simplistic design and is the property owner's preferred design.

b) The applicant, AT&T Wireless, has provided coverage maps (**Exhibit E**) which identifies a coverage gap 3 ½ mile radius coverage gap within the vicinity of Bryson Hesperia Road and Hesperia Road. The coverage area currently provides good outdoor service, but no indoor coverage. The proposed facility will improve the existing coverage to provide good In-Building, In-Transit, and Outdoor services within the immediate area. The proposed service goals are consistent with FCC

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Zoning Administrator does hereby:

1. Find the project is the installation of a new wireless communication facility, which qualifies as a Class 3 Categorical Exemption per Section 15303 of the CEQA Guidelines (New Construction or Conversion of Small structures), and there are no exceptions pursuant to Section 15300.2;
2. Approve a Use Permit to allow the installation of a 120-foot tall wireless communication facility disguised as Eucalyptus tree, and associated equipment consisting of twelve (12), six foot tall panel antennas, twenty two (22) remote radio units, four (4) DC surge compressors, one (1) microwave dish antenna, and one (1) back-up Diesel Generator within a 900 square foot leased area enclosed by a seven foot high wooden fence.

PASSED AND ADOPTED this 25th day of October, 2018.

Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE OCT 26 2018

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION / CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE [DATE] NOV 06 2018

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

   Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

   Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

APPENDIX B

Final RF EME Report for PLN 180317

APPENDIX B ABRIDGED VERSION OF FINAL RF-EME REPORT

(Please refer to original document for complete information)

Radio Frequency – Electromagnetic Energy (RF-EME) Site Audit (Post-Construction Monitoring)

USID# 175618
Site No. CCL03702
Zamora Property
76310 Hesperia Rd
Bradley, California 93426
Monterey County
35.815161; -121.057758 NAD83

EBI Project No. 6220000365
February 11, 2020



Prepared for:

AT&T Mobility, LLC
c/o Vinculums Services Inc
1200 Del Paso Rd, Suite 150
Sacramento, CA 95834

Prepared by:

EBI Consulting
environmental | engineering | due diligence

EXECUTIVE SUMMARY

Purpose of Report

EnviroBusiness Inc. (dba EBI Consulting) has been contracted by AT&T Mobility, LLC to conduct radio frequency electromagnetic (RF-EME) monitoring for AT&T Site CCL03702 located at 76310 Hesperia Rd in Bradley, California to determine RF-EME exposure levels from wireless communications equipment installed at this site. As described in greater detail in Section 2.0 of this report, the Federal Communications Commissions (FCC) has developed Maximum Permissible Exposure (MPE) Limits for general population exposures and occupational exposures. This report summarizes the results of RF-EME monitoring in relation to relevant FCC RF-EME compliance standards for limiting human exposure to RF-EME fields.

EBI field personnel visited this site on February 4, 2020. This report contains a summary of the RF EME analysis for the site, including the following:

- Antenna Inventory
- Site Photographs
- Site Plan with antenna locations
- Graphic representation of onsite monitoring results

This document addresses the emissions and signage of AT&T's transmitting facilities independently. Emission readings included in this report are cumulative of all carriers on site. However, this report does not address other carrier compliance.

Statement of Compliance

An installation is considered out of compliance with FCC regulations if, in an area that exceeds the FCC limits, that installation's contribution is greater than 5% of the applicable MPE and there are no mitigation measures in place.

Based on the FCC criteria, the results of the RF emissions survey indicate that the readings do not exceed applicable FCC MPE limits.

An installation is considered out of compliance with FCC regulations if, in an area that exceeds the FCC limits, that installation's contribution is greater than 5% of the applicable MPE and there are no mitigation measures in place.

AT&T Recommended Signage/Compliance Plan

AT&T's RF Exposure: Responsibilities, Procedures & Guidelines document, dated October 28, 2014, requires that:

1. All sites must be analyzed for RF exposure compliance;
2. All sites must have that analysis documented; and
3. All sites must have any necessary signage and barriers installed.

Site compliance recommendations have been developed based upon protocols presented in AT&T's RF Exposure: Responsibilities, Procedures & Guidelines document, dated October 28, 2014, additional guidance provided by AT&T, EBI's understanding of FCC and OSHA requirements, and common industry practice. Barrier locations have been identified (when required) based on guidance presented in AT&T's

RF Exposure: Responsibilities, Procedures & Guidelines document, dated October 28, 2014. The following signage was installed at this site:

- Yellow CAUTION 2B sign posted 9' AGL at the base of the monopole on the North and South side.

The signage installed at this site complies with AT&T's RF Exposure: Responsibilities, Procedures & Guidelines document and therefore complies with FCC and OSHA requirements. Barriers are not recommended on this site. More detailed information concerning site compliance recommendations is presented in Section 5.0 of this report.

SITE DESCRIPTION

This project involves twelve (12) wireless telecommunication antennas on a monotree in Bradley, California. There are three Sectors (A, B, and C) at the site, with four (4) antennas installed per sector. The Sector A antennas are oriented 30° from true north. The Sector B antennas are oriented 270° from true north. The Sector C antennas are oriented 150° from true north.

EBI conducted a site visit on February 4, 2020. At the time of the site visit, there were no other carriers observed at this site. Measurements were taken at ground level in the surrounding area. Appendix B contains site photographs taken on February 4, 2020 during the on-site survey. Appendix C presents a site plan indicating monitoring and antenna locations. Appendix E contains climate and site observations recorded during the site visit.

1.0 FEDERAL COMMUNICATIONS COMMISSION (FCC) REQUIREMENTS

The FCC has established Maximum Permissible Exposure (MPE) limits for human exposure to Radiofrequency Electromagnetic (RF-EME) energy fields, based on exposure limits recommended by the National Council on Radiation Protection and Measurements (NCRP) and, over a wide range of frequencies, the exposure limits developed by the Institute of Electrical and Electronics Engineers, Inc. (IEEE) and adopted by the American National Standards Institute (ANSI) to replace the 1982 ANSI guidelines. Limits for localized absorption are based on recommendations of both ANSI/IEEE and NCRP.

The FCC guidelines incorporate two separate tiers of exposure limits that are based upon occupational/controlled exposure limits (for workers) and general population/uncontrolled exposure limits for members of the general public.

Occupational/controlled exposure limits apply to situations in which persons are exposed as a consequence of their employment and in which those persons who are exposed have been made fully aware of the potential for exposure and can exercise control over their exposure. Occupational/ controlled exposure limits also apply where exposure is of a transient nature as a result of incidental passage through a location where exposure levels may be above general population/uncontrolled limits (see below), as long as the exposed person has been made fully aware of the potential for exposure and can exercise control over his or her exposure by leaving the area or by some other appropriate means.

General population/uncontrolled exposure limits apply to situations in which the general public may be exposed or in which persons who are exposed as a consequence of their employment may not be made fully aware of the potential for exposure or cannot exercise control over their exposure. Therefore, members of the general public would always be considered under this category when exposure is not

employment-related, for example, in the case of a telecommunications tower that exposes persons in a nearby residential area.

Table 1 and Figure 1 (below), which are included within the FCC's OET Bulletin 65, summarize the MPE limits for RF emissions. These limits are designed to provide a substantial margin of safety. They vary by frequency to take into account the different types of equipment that may be in operation at a particular facility and are "time-averaged" limits to reflect different durations resulting from controlled and uncontrolled exposures.

The FCC's MPEs are measured in terms of power (mW) over a unit surface area (cm^2). Known as the power density, the FCC has established an occupational MPE of 5 milliwatts per square centimeter (mW/cm^2) and an uncontrolled MPE of 1 mW/cm^2 for equipment operating in the 1900 MHz frequency range. For the AT&T equipment operating at 850 MHz, the FCC's occupational MPE limit is 2.83 mW/cm^2 and an uncontrolled MPE limit of 0.57 mW/cm^2. For the AT&T equipment operating at 700 MHz, the FCC's occupational MPE limit is 2.33 mW/cm^2 and an uncontrolled MPE limit of 0.47 mW/cm^2. These limits are considered protective of these populations.

Table 1: Limits for Maximum Permissible Exposure (MPE)

(A) Limits for Occupational/Controlled Exposure

Frequency Range (MHz)	Electric Field Strength (E) (V/m)	Magnetic Field Strength (H) (A/m)	Power Density (S) (mW/cm^2)	Averaging Time $[E]^2$, $[H]^2$, or S (minutes)
0.3-3.0	614	1.63	(100)*	6
3.0-30	1842/f	4.89/f	($900/f^2$)*	6
30-300	61.4	0.163	1.0	6
300-1,500	--	--	f/300	6
1,500-100,000	--	--	5	6

(B) Limits for General Population/Uncontrolled Exposure

Frequency Range (MHz)	Electric Field Strength (E) (V/m)	Magnetic Field Strength (H) (A/m)	Power Density (S) (mW/cm^2)	Averaging Time $[E]^2$, $[H]^2$, or S (minutes)
0.3-1.34	614	1.63	(100)*	30
1.34-30	824/f	2.19/f	($180/f^2$)*	30
30-300	27.5	0.073	0.2	30
300-1,500	--	--	f/1,500	30
1,500-100,000	--	--	1.0	30

f = Frequency in (MHz)
* Plane-wave equivalent power density

Based upon protocols presented in AT&T's RF Exposure: Responsibilities, Procedures & Guidelines document, dated October 28, 2014, and additional guidance provided by AT&T, the following signage was installed on the site:

- Yellow CAUTION 2B sign posted 9' AGL at the base of the monopole on the North and South side.

5.0 SUMMARY AND CONCLUSIONS

EBI has prepared this Radiofrequency Emissions Compliance Report for telecommunications equipment installed at the site located at 76310 Hesperia Rd in Bradley, California.

The highest level of RF emissions measured within the facility compound was 0.7111% of the FCC's MPE limits based on the Occupational standard. Additionally, the highest level of RF emissions measured at ground level surrounding the structure was 2.2370% of the FCC's MPE limits based on the General Population standard. A controlled/occupational environment assumes that access to the facility is generally restricted to authorized personnel and facility management and members of the general public will not be able to access the wireless telecommunications facility.

The results of the RF emissions survey indicate that the levels of RF emissions exposure do not exceed applicable FCC MPE limits.

Signage was installed at the site as presented in Section 5.0. Posting of the signage brings the site into compliance with FCC rules and regulations and AT&T's corporate RF safety policies.

6.0 LIMITATIONS

This report was prepared for the use of AT&T Mobility, LLC. It was performed in accordance with generally accepted practices of other consultants undertaking similar studies at the same time and in the same locale under like circumstances. The conclusions provided by EBI are based solely on the information collected during the site visit and provided by the client. The observations in this report are valid on the date of the investigation. Any additional information that becomes available concerning the site should be provided to EBI so that our conclusions may be revised and modified, if necessary. This report has been prepared in accordance with Standard Conditions for Engagement and authorized proposal, both of which are integral parts of this report. No other warranty, expressed or implied, is made.

APPENDIX C

LUAC Guidelines (abridged)

APPENDIX C. LUAC GUIDELINES
(ABRIDGED - SEE ORIGINAL DOCUMENT)

Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Upon motion of Supervisor Phillips, seconded by Supervisor Salinas and carried by those members present, the Board of Supervisors hereby:

Considered and:

a. Found the consolidation of the North County-Inland and North County-Coastal Land Use Advisory Committees (LUAC) and revision of LUAC procedures is not a project under California Environmental Quality Act (CEQA) Guidelines;
b. Adopted Resolution 15-103 consolidated the North County-Inland and North County-Coastal Land Use Advisory Committees; and
c. Amended the Land Use Advisory Committee Procedures to reflect the consolidation.
(North County Land Use Advisory Committees - REF150004/County of Monterey)

PASSED AND ADOPTED on this 28th day of April 2015, by the following vote, to wit:

AYES: Supervisors Phillips, Salinas and Potter
NOES: Supervisors Armenta and Parker
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 78 for the meeting on April 28, 2015.

Dated: April 29, 2015
File ID: RES 15-043

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

EXHIBIT 1
PROPOSED AMENDMENTS TO THE MONTEREY COUNTY LAND USE ADVISORY COMMITTEE PROCEDURES

Monterey County Land Use Advisory Committee Procedures

(Adopted November 18, 2008; amended December 16, 2014)

The following procedures were adopted by the Board of Supervisors.

1. The purpose of a Land Use Advisory Committee (LUAC) is to:

   a. Advise the Appropriate Authority by providing comments and recommendations on referred land use planning matters pursuant to the "Guidelines for Review of Applications" in **Exhibit A**.

   b. Reflect the perspective of the local community with focus on neighborhood character, unique community site and conditions and potential local effects or contributions that would likely result from the implementation of a proposed project.

   c. Perform such other review of land use issues as may be requested from time to time by the Planning Commission or the Board of Supervisors.

   d. Provide a venue for project neighbors to provide input on proposed projects.

   e. Identify concerns in response to staff-provided scope of review on neighborhood, community and site issues excluding regional impacts which are the purview of the Appropriate Authority.

2. Definitions:

   a. "Appropriate Authority" means that person, official, or body designated to hear, grant, deny, modify, condition, revoke or otherwise act on permits required by County Zoning Ordinances.

   b. "Brown Act" (a.k.a. Ralph M. Brown Act), as set forth in Section 54950 et seq. of the California Government Code, means the state open meeting law applicable to local government bodies.

   c. "LUAC" means Land Use Advisory Committee.

   d. "Planning Area" means geographic sub-regions of Monterey County established by the applicable General Plan, Area Plans and Local Coastal Program Land Use Plans (See **Exhibit B**).

[ABRIDGED HERE TO EXHIBITS]

EXHIBIT A

GUIDELINES FOR REVIEW OF MATTERS REFERRED TO LAND USE ADVISORY COMMITTEES BY THE APPROPRIATE AUTHORITY.

The Land Use Advisory Committee (LUAC) shall review and make recommendations on land use issues only as specifically set out by the following guidelines:

1. The applicable LUAC shall review projects that require the following:

   a) Development requiring CEQA review [Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report (EIR)]

   b) Lot Line Adjustments involving conflicts (e.g.; modifications to Scenic Easements or Building Envelopes, Williamson Act, the Coastal Zone, etc.).

   c) Variances.

   d) Design Approvals for projects subject to review by the Zoning Administrator or Planning Commission.

2. The LUAC shall review any discretionary permit application for which the local area plan, land use plan, master plan, specific plan, or community plan requires review by a local citizens' committee.

3. The LUAC shall review any discretionary permit application, and any land use matter that in the opinion of the Board of Supervisors, the Planning Commission, or Director of Planning, raises significant land use issues that necessitate review prior to a public hearing by the Appropriate Authority. The Director of Planning shall inform the Planning Commission of a Board of Supervisors' referral.

4. The LUAC shall focus recommendations on site design and local considerations.

EXHIBIT B

PLANNING AREA	AREA PLAN	LUAC
Big Sur	Big Sur Land Use Plan	South Coast LUAC
		Big Sur LUAC
Cachagua	Cachagua Area Plan	Cachagua LUAC
Carmel	Carmel Area Land Use Plan	Carmel Unincorporated /Highlands LUAC
Carmel Valley	Carmel Valley Master Plan	Carmel Valley LUAC
Central Salinas Valley	Central Salinas Valley Area Plan	Chualar Neighborhood Design Review Committee
	Chualar Community Plan	
Coast	NONE	N/A
Del Monte Forest	Del Monte Forest Land Use Plan	Del Monte Forest LUAC
Fort Ord	Fort Ord Master Plan	N/A
Greater Monterey Peninsula	Greater Monterey Peninsula Area Plan	Greater Monterey Peninsula LUAC
Greater Salinas	Greater Salinas Area Plan	Spreckels Neighborhood Design Review Committee
	Boronda Community Plan	
North County, Coastal and Inland	North County Land Use Plan	North County ~~– Coastal~~ LUAC ~~North County – Non-Coastal LUAC~~
	North County Area Plan	
	Moss Landing Community Plan	
	Pajaro Community Plan	
	Castroville Community Plan	Castroville LUAC
South County	South County Area Plan	Bradley-Parkfield LUAC
Toro	Toro Area Plan	Toro LUAC
Ag Lands	All	Agricultural Advisory Committee
AWCP	AWCP	Toro LUAC if Project meets criteria listed in Exhibit A
		Agricultural Advisory Committee

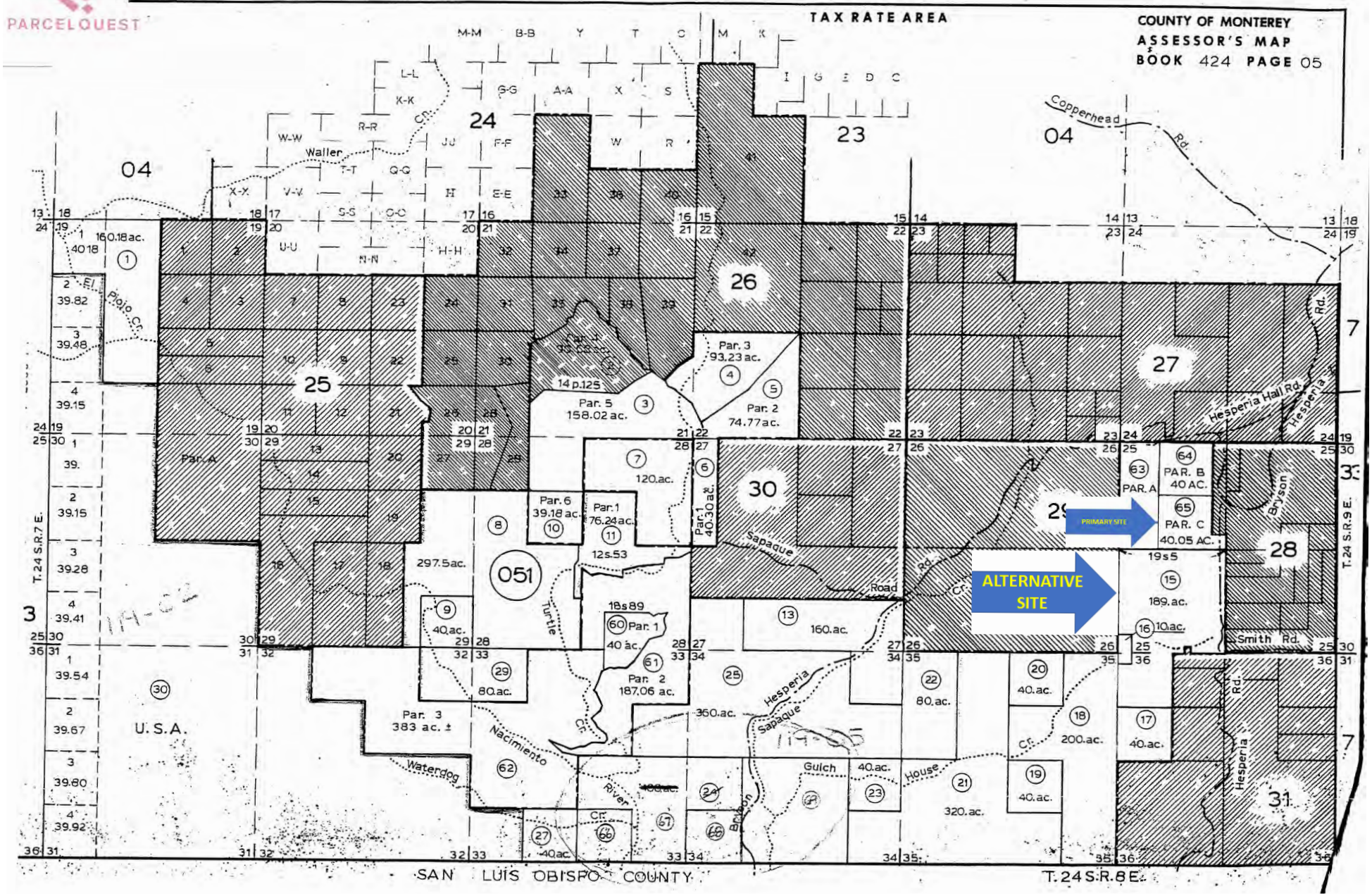
APPENDIX D

APN and Topographic

Maps of Primary and Alternative sites

Provided by:
PARCELQUEST

APPENDIX D. APN and Topographic Maps of Primary and Alternative sites



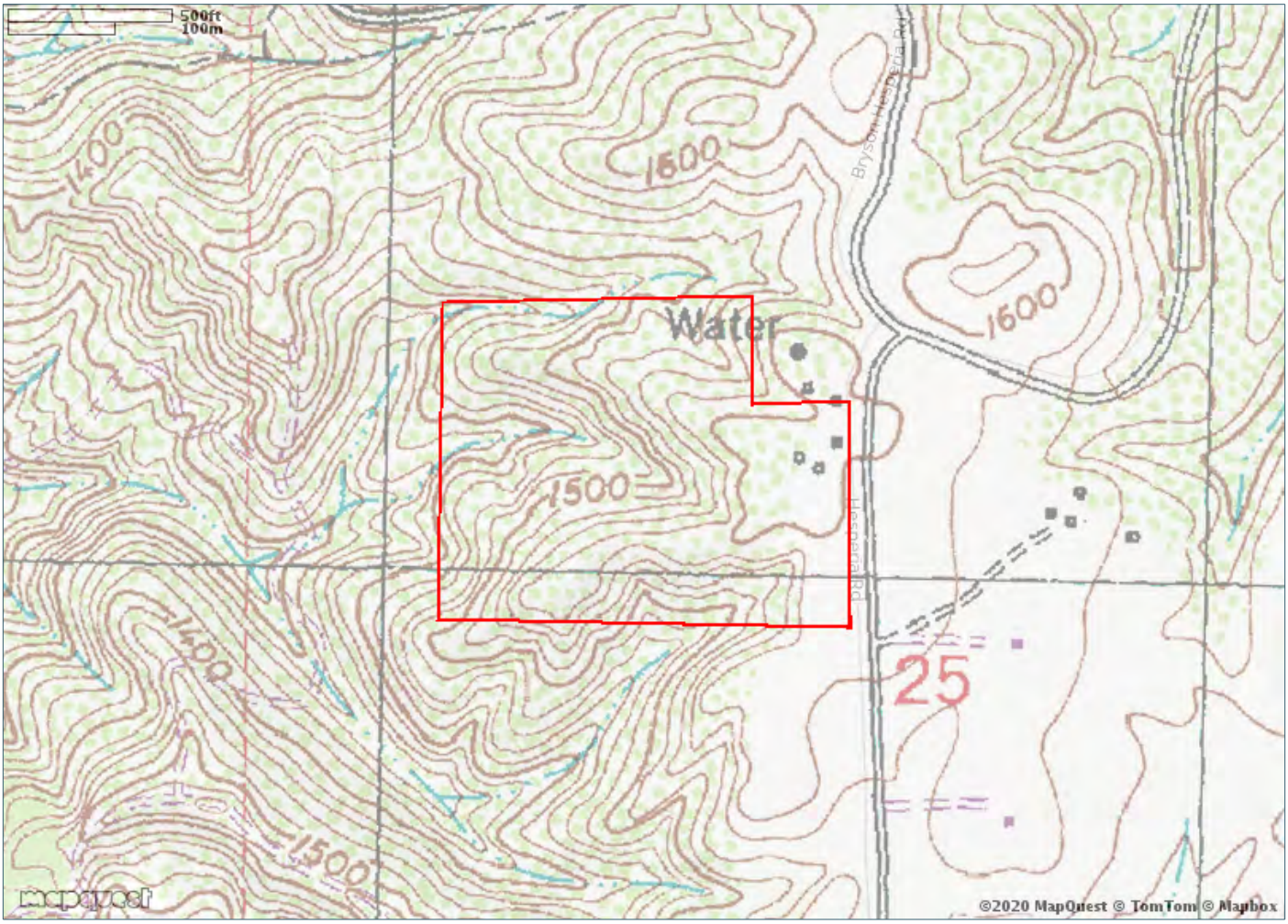
PLN 180317 PRIMARY SITE (MAP)

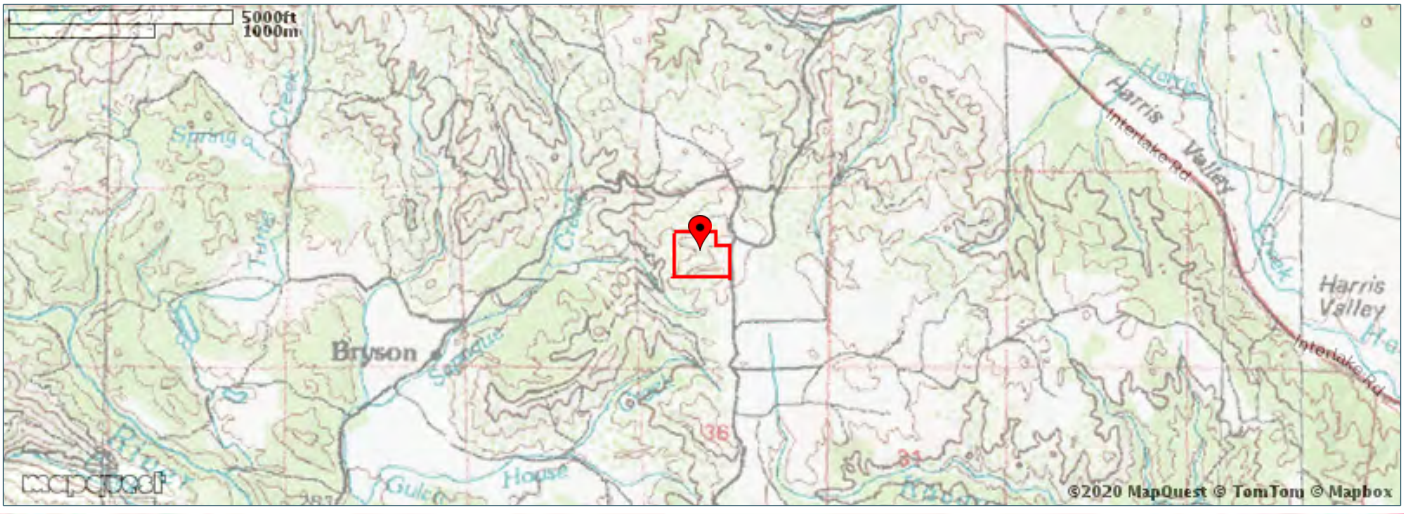
PARCELQUEST LITE

Topography Report

Property Address:
76310 HESPERIA RD BRADLEY CA 93426-9505

Parcel # (APN):
424-051-065-000





* The information provided here is deemed reliable, but is not guaranteed.
© 2020 ParcelQuest

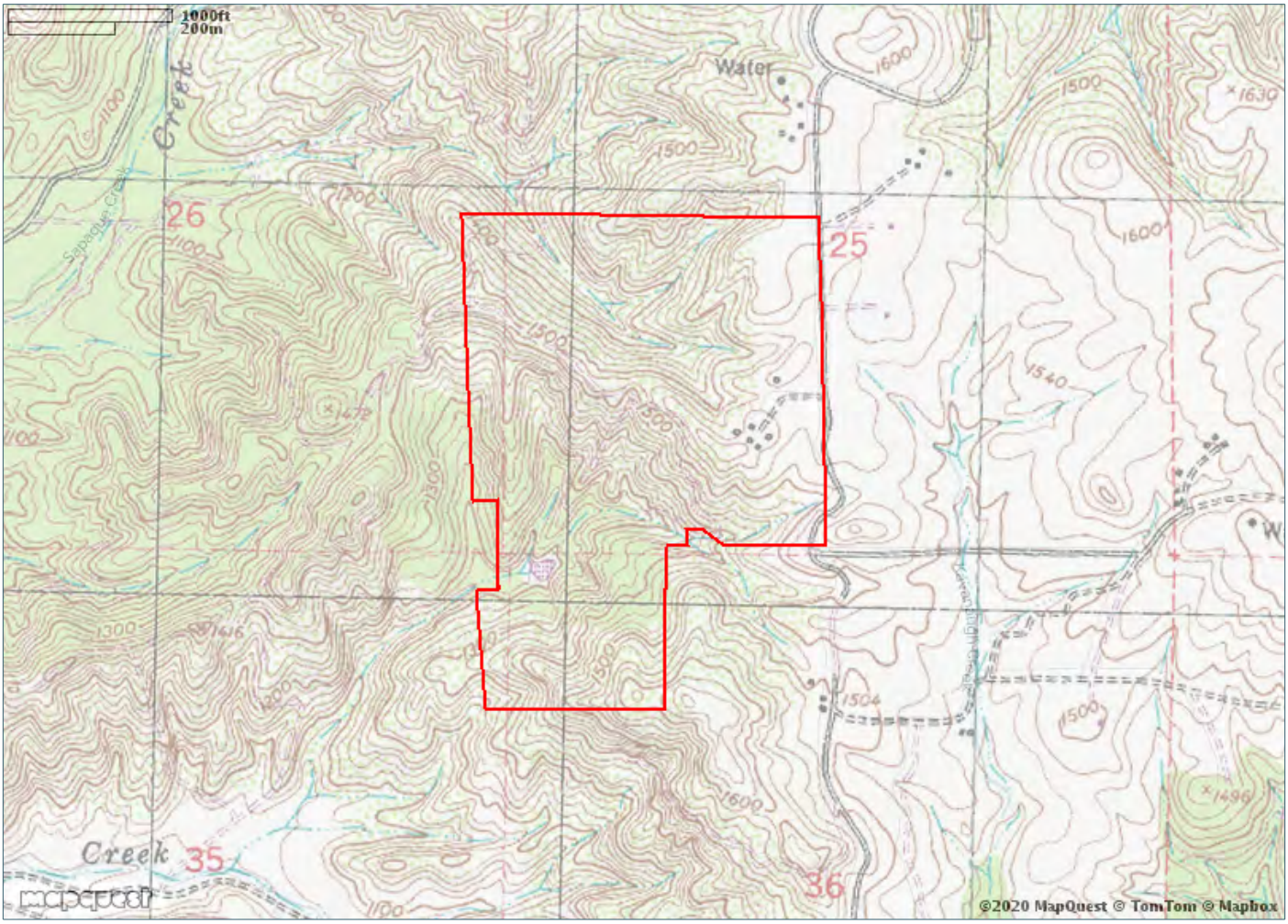
PLN 180317 ALTERNATIVE SITE (MAP)

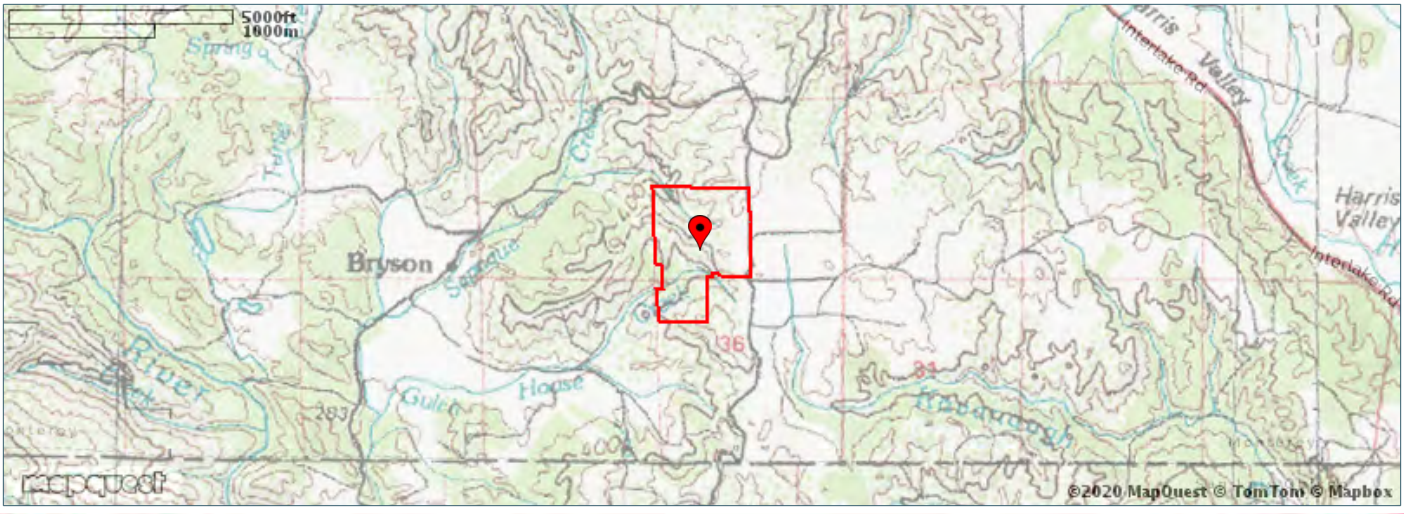
PARCELQUEST LITE

Topography Report

Property Address:
2570 BRYSON RD BRADLEY CA 93426

Parcel # (APN):
424-051-015-000





* The information provided here is deemed reliable, but is not guaranteed.
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APPENDIX E

Photography Log and Credits

Appendix E
Photography Log and Credits

(The Civil Grand Jury is grateful to all who donated photographs, even without knowing how they would be used.)

Count	Pg	Description	Credits *
1	6.	PLN 180317 on Bryson-Hesperia Plain	Permission of owner
2	7.	District Three Supervisor & County Staff meet with the Community on Aug 28, 2019 to discuss the new cell tower	Permission of owner
3	8.	Hesperia Road -- cell tower construction	Permission of owner
4	13.	Uncaptioned photograph	Permission of owner
5	14.	Parcel Map of Primary and Alternative Sites (annotated)	Monterey County Records
6	15.	Uncaptioned Imagery (annotated)	Google Permission with required credits on photo
7	17.	Primary site, with cell tower, looking south toward a tree line on the alternative site	Permission of owner
8	18.	Monterey County Weekly. Notice in Oct 10-17, 2018 edition. Page 59 (classifieds)	17 USC § 107 Fair Use
9	19.	PLN 180317 Public Hearing (10/25/18)	Public Domain
10	20.	Tuesday, August 6th 2019, tower construction	Permission of owner
11	22.	A LUAC-reviewed cell tower. distance: 14.8mi	Permission of owner
12	23.	Bee Rock cell tower, 7.5 miles from primary	Permission of owner
13	24.	PLN 180317 Microwave dish antenna	Permission of owner
14	29.	Hesperia Road viewsheds two views: facing away & facing toward the cell tower	Permission of owner
15	31.	RMA Planning - the permit counter	Permission of owner
16	34.	Bryson - Hesperia before	Permission of owner

* The owners of all pictures were verified by the Civil Grand Jury, and all names have been redacted.

OVERDUE RESPONSES TO THE 2018/19 CIVIL GRAND JURY REPORT

SUMMARY

The 2018/19 Monterey County Civil Grand Jury (Grand Jury) report, *Rape Kit Processing in Monterey County,* published on June 24, 2019, required responses from the Monterey County Board of Supervisors and eleven of the twelve city councils in Monterey County. The responses were due by September 12, 2019. Three cities — Soledad, Seaside, and Del Rey Oaks — failed to provide a timely response.

BACKGROUND

The Continuity Committee of the 2019/20 Civil Grand Jury is responsible for ensuring the seamless transition from one Civil Grand Jury to the next. One of the Committee's responsibilities is to monitor the filing of responses to the previous year's Civil Grand Jury reports, and advise the current Civil Grand Jury if those responses are complete and legally sufficient, or if additional follow-up is required.

California State Penal Code section 933(c) sets forth, in part:

> No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations ….

DISCUSSION

The 90-day deadline for responses to the 2018/19 Civil Grand Jury report, *Rape Kit Processing in Monterey County,* was September 12, 2019.

Three cities failed to respond by the deadline: Soledad, Seaside, and Del Rey Oaks.

The Monterey County Civil Grand Jury Procedures Manual, relative to required responses to Civil Grand Jury recommendations, sets forth the following: “If a board or elected official fails to respond to one or more findings or recommendations, the jury should send a letter advising the board or official of the requirements of §933.05.” Such reminder letters were sent to the three City Councils on January 23, 2020. Following receipt of the reminder letters, the three cities responded as follows:

- The City of Soledad called and emailed to explain that the response had been approved by the City Council on September 4, 2019 but by some oversight the response letter never made it to the mayor for his signature. The mayor’s signature was obtained, and the response letter was received on February 6, 2020 (Exhibit A). The Civil Grand Jury verified that the response letter was listed on the September 4, 2019 City Council meeting agenda (Exhibit B). The minutes of the September 4, 2019 City Council meeting indicated that the letter was approved as part of the consent calendar (Exhibit C).

- The City of Seaside called and emailed to say that the response letter was being placed on the agenda for approval by the City Council at its February 20, 2020 meeting. The Civil Grand Jury verified that the approval of the city response was listed on the February 20, 2020 City Council meeting agenda (Exhibit D) along with the letter (Exhibit E).

- The City of Del Rey Oaks’ reply (Exhibit F) was prepared and presented to the City Council on August 27, 2019 by the Chief of Police. The response was approved at that time. The response letter to the Superior Court was prepared and signed on September 1, 2019. However, that response was never sent. After inquiry by this Civil Grand Jury, the City of Del Rey Oaks mailed the response. It

was received by the Superior Court and provided to Civil Grand Jury on March 9, 2020.

FINDINGS

F1. The City of Soledad prepared a timely response but failed to follow-through to obtain a signature on the duly-approved response letter and to mail the letter in a timely matter.

F2. The City of Seaside failed to comply with the requirements set forth in California Penal Code §933.05, but quickly corrected the omission once notified.

F3. The City of Del Rey Oaks prepared a timely response but failed to follow-through by mailing out the duly approved response and letter in a timely matter.

RECOMMENDATIONS

When the 2019/20 Civil Grand Jury began our investigations, COVID-19 had not yet become a public health crisis. However, as we conclude our reports, we are tasked to specify a time frame within which to address our recommendations. We have done so, attempting to allow some extra time given the current situation. We ask the County Supervisors, Departments, Cities, and Special Districts responsible for enacting our recommendations to do their best to accomplish these goals as expeditiously as possible, given the effect of the current pandemic crisis on staffing availability.

R1. The City of Soledad should develop and implement new procedures (if none currently exist), and review existing procedures for responding to the Civil Grand Jury's findings and recommendations to ensure that the city's response is delivered to the presiding judge on or before the due date. These procedures should be developed and implemented within 90 days of the publication of this report.

R2. The City of Seaside should develop and implement new procedures (if none currently exist) and review existing procedures for responding to the Civil Grand

Jury's findings and recommendations to ensure that the city's response is delivered to the presiding judge on or before the due date. These procedures should be developed and implemented within 90 days of the publication of this report.

R3. The City of Del Rey Oaks should develop and implement new procedures (if none currently exist), and review existing procedures for responding to the Civil Grand Jury's findings and recommendations to ensure that the city's response is delivered to the presiding judge on or before the due date. These procedures should be developed and implemented within 90 days of the publication of this report.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Civil Grand Jury requested responses from the following governing bodies within 90 days:

- Soledad City Council
  Finding: F1
  Recommendation: R1

- Seaside City Council
  Finding: F2
  Recommendation: R2

- Del Rey Oaks City Council
  Finding: F3
  Recommendation:

APPENDICES

Exhibit A – City of Soledad's Response Letter to the Rape Kit Processing Report

Exhibit B – City Council Meeting Agenda for 4 September 2019, City of Soledad

Exhibit C – City Council Meeting Minutes for 4 September 2019, City of Soledad

Exhibit D – City Council Meeting Agenda for 20 February 2020, City of Seaside

Exhibit E – City of Seaside's Response Letter to the Rape Kit Processing Report, Draft

Exhibit F – City of Del Ray Oaks Response Letter to the Rape Kit Processing Report

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Civil Grand Jury not contain the name of any person, or facts leading to the identity of any person who provided information to the Civil Grand Jury.

APPENDIX A

Gateway to the Pinnacles

SOLEDAD CALIFORNIA

January 27, 2020

The Honorable Stephanie E. Hulsey
Judge of the Superior Court
County of Monterey
240 Church Street
Salinas, CA 93901

Re: City of Soledad's Response to the 2018-2019 Monterey County Civil Grand Jury Final Report "Rape Kit Processing In Monterey County."

Dear Ms. Garcia,

The City of Soledad received a letter from you dated January 23, 2020 to inform us that the City's response to the 2018-2019 Monterey Civil Grand Jury Report Rape Kit Processing in Monterey County was not received.

We have found that the staff report and response letter was approved by the City Council at its September 4, 2019 Council Meeting, however, we failed to send to you the final executed response letter.

Enclosed, please find a copy of the staff report and executed response letters. The letters are identical, with one dated September 4, 2019 and one dated January 27, 2020.

Our sincere apologies for the delay.

If you have any questions, please contact me at (831) 223-5016.

Sincerely,

Michael McHatten
City Manager

Consent Item No. C-6

COUNCIL COMMUNICATION

SUBJECT: **RECEIVE AND ACCEPT THE CITY'S RESPONSE LETTER TO THE CIVIL GRAND JURY'S REPORT REGARDING RAPE KIT PROCESSING IN MONTEREY COUNTY AND APPROVE TRANSMITTAL OF THE RESPONSE LETTER**

MEETING DATE: **September 4, 2019**

Recommendation

It is recommended that the City Council receive and accept the City's response letter to the Civil Grand Jury's report regarding rape kit processing in Monterey County and approve transmittal of the response letter.

Background

The 2018-2019 Monterey County Civil Grand Jury conducted research into how sexual assault forensic evidence, commonly called "rape kits," is being processed by law enforcement agencies ("LEAs") in Monterey County. After conducting interviews with Monterey County LEAs, the Civil Grand Jury published its report on or around June 14, 2019, and then forwarded its findings and recommendations to the City Councils of each city in the County. The Civil Grand Jury has asked that each City Council respond to its findings by providing one of the following responses:

1. That the City Council agrees with the finding; or
2. That the City Council disagrees wholly or partially with the finding, in which case the City Council must specify the portion of the finding that is disputed and shall include in the response an explanation of the reasons for the disagreement.

With respect to each recommendation, the City Council must report one of the following actions:

1. That the recommendation has been implemented, with a summary regarding the implemented action;
2. That the recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation; or
3. That the recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared

for discussion by the City Council (this timeframe not to exceed six months from the date of publication of the report); or

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

Review and Analysis

The Civil Grand Jury has requested a response from the Soledad City Council on a number of findings and recommendations highlighted in its report. Chief Sills and Staff prepared an initial response letter from the Soledad City Council that was presented to the Council at the August 7 Council meeting. After expressing some misgivings concerning the wording of several responses to Grand Jury findings, primarily having to do with the need to clarify the City's compliance with existing regulations concerning the processing of rape kits and the City's commitment to provide adequate training and/or be otherwise prepared to investigate sexual assault cases, the Council requested that Staff modify the City responses and bring the same back for Council review at the September meeting. Please refer to attached draft letter for modifications. The City's response is time sensitive, and is due by no later than September 14, 2019.

Financial Consideration

The City is not expected to experience any appreciable fiscal impact from responding to the Civil Grand Jury. There may be costs, in an amount unknown at this time, associated with implementation of all of the Grand Jury's recommendations.

Alternatives

- Accept the prepared responses to the Civil Grand Jury and direct that they be forwarded to the Honorable Stephanie E. Hulsey.
- Request changes to the responses and then direct that they be forwarded to the Honorable Stephanie E. Hulsey.

City Manager

Attachment: City's Response Letter

Gateway to the Pinnacles

SOLEDAD CALIFORNIA

September 4, 2019

The Honorable Stephanie E. Hulsey
Judge of the Superior Court
County of Monterey
240 Church Street
Salinas, CA 93901

Re: City of Soledad's Response to the 2018-2019 Monterey County Civil Grand Jury Final Report "Rape Kit Processing In Monterey County."

Dear Judge Hulsey:

This letter will serve as the City Council of the City of Soledad's response in regard to the Findings and Recommendations of the 2018-2019 Monterey County Civil Grand Jury Final Report- "Rape Kit Processing in Monterey County." As requested by the Grand Jury, the City of Soledad respectfully submits the following responses to the Findings (1-9) and Recommendations (2-6) as identified for a response in the Report.

Civil Grand Jury's Report- Findings

F1) *LEAs in Monterey County lacked awareness and provided unclear and inconsistent information as to whether there are any backlogged Rape Kits.* The City Council partially disagrees with the finding. While the City recognizes that this finding may apply to some LEAs in Monterey County, the Soledad Police Department keeps current and complete records of Rape Kit processing, has been and continues to be in compliance with Rape Kit processing requirements, and has no kits held in evidence that have not been processed.

F2) *The lack of a centralized place to post information has resulted in a lack of consistency in the way that LEAs manage and track sexual assaults.* The City Council agrees with the finding that there is no local centralized place to post information related to the status of Rape Kits. This can result in a lack of consistency in the managing and tracking of sexual assaults.

F3) *At the beginning of this investigation, not all the LEAs were prepared to report the Rape Kit status information to the CDOJ as required by PC 680.4.* The City Council partially disagrees with the finding. While the City recognizes that some LEAs may not have been prepared to report the status of Rape Kits as required by PC 680.4, the

Soledad Police Department was aware of the requirement and did submit its report before the July 1, 2019 deadline.

F4) *There is advanced training available for sexual assault investigators, but LEAs are instead relying upon senior investigators to provide "on the job training to other investigators within their respective departments."* The City Council agrees with the finding. Due to insufficient staffing, the City's police department has been unable to take advantage of advanced training courses. Therefore, the Department relies upon Field Training Officers to provide the training for new recruits and less experienced officers.

F5) *Training for advanced skills in the forensics of sexual assault investigations is not prioritized in the budgeting process.* The City Council partially disagrees with the finding. The City has budgeted adequate funds to allow for training for sexual assault investigations. However, limited staff and the need to comply with other basic training requirements have resulted in an inability to send Department personnel to advanced sexual assault investigations courses. Notwithstanding, enhancing the Department's overall skillset in investigating sexual assault cases remains a high priority.

F6) *Some LEAs rely on cross-training less experienced patrol officers to supplement understaffed investigative teams rather than prioritizing the strategic increase of well-trained investigators.* The City Council agrees with this finding. Because of limited staffing, the Soledad Police Department does not have a Department Detective or Investigator and our field officers are forced to conduct follow-up on sexual assault cases that they receive while working patrol.

F7) *All jurisdictions can expedite the investigations of rape crimes through access to the RADS processing to facilitate timely resolution of rape cases.* The City Council agrees with the finding. The Soledad Police Department has been in compliance with the use of RADS since its inception in September of 2016.

F8) *Most LEAs in Monterey County have implemented DNA testing protocols established by the CDOJ which have reduced the likelihood of unprocessed DNA evidence.* The City Council agrees with the finding.

F9) *There is no centralized authority coordinating all LEAs in Monterey County regarding collection, processing and reporting of sexual assaults.* The City Council agrees with the finding.

RECOMMENDATIONS

R2) *By January 15, 2020, the governing bodies of all Monterey County LEAs should assign a representative to participate in the DA-led centralized reporting initiative.* The recommendation has not been implemented, but once the Monterey County District Attorney's Office develops a centralized interagency model, this can be accomplished.

R3) *By July 1, 2019, every Monterey County LEA should report to the CDOJ the required data outlined in PC 680.4.* That recommendation has been implemented and the Soledad Police Department is in compliance with the law.

R4) *By July 1, 2019, and annually thereafter, every Monterey County LEA should report to their governing body and the public the required data outlined in PC 680.4.* The recommendation requires further analysis, to be undertaken within the next six months, as to whether PC 680.4 imposes additional requirements to report this same information to the public. With regard to making annual reports to the governing body of the City of Soledad, the recommendation will be implemented.

R5) *By January 15, 2020, every Monterey County LEA should develop a funding source, such as grants, for additional expertise training and recertification within the Sexual Assault and Forensic Division.* The recommendation requires further analysis within the next six months. Although additional funding can be sought to pay for such training, inadequate staffing of a small agency will continue to make it difficult to send personnel to training without compromising the overall patrol strength of the City.

R6) *By fiscal year 2020-2021, every Monterey County LEA should add or dedicate certified staff for Sexual Assault Investigations and include that increased cost in their budgets.* The recommendation requires further analysis within the next six months. Although certain staff members may be dedicated as certified sexual assault investigators, the Department may not have the ability to add increased funding to pay for the necessary training or the ability to pay those designated investigators stand-by pay. The Department can only make a department budgeting request- the City Council is ultimately responsible for the allocation of funds for ongoing and new programs.

Respectfully submitted,

Fred J. Ledesma
Mayor, for and on behalf of the City Council of the City of Soledad

c: Michael McHatten, City Manager
Eric Sills, Chief of Police

Gateway to the Pinnacles

SOLEDAD CALIFORNIA

January 27, 2020

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Respectfully submitted,



Fred J. Ledesma
Mayor, for and on behalf of the City Council of the City of Soledad

c: Michael McHatten, City Manager
Eric Sills, Chief of Police

APPENDIX B

CITY OF SOLEDAD

JOINT CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AUTHORITY
REGULAR MEETING AGENDA

WEDNESDAY, SEPTEMBER 4, 2019

5:30 P.M.
The public meeting will open at 5:30 and, after taking public comment for closed session items, the Council will immediately recess to closed session.

6:00 P.M.
The regular public open meeting will begin at 6:00, or as soon thereafter as the Closed Session is concluded, and any reportable action taken during the Closed Session will be reported out at that time.

CITY COUNCIL CHAMBERS
248 MAIN STREET
SOLEDAD, CALIFORNIA

WELCOME

Welcome to your City of Soledad City Council/Successor Agency Meeting. Your City Councilmembers/Agencymembers are:

Mayor/Chair Fred J. Ledesma
Mayor Pro Tem/Vice Chair Alejandro Chavez
Councilmember/Agencymember Carla Strobridge Stewart
Councilmember/Agencymember Anna Velazquez
Councilmember/Agencymember Marisela Lara

I. CALL TO ORDER

II. ROLL CALL

III. PUBLIC COMMENT- CLOSED SESSION ITEMS

At this time any member of the public may address the Council/Agency on Closed Session items appearing on the agenda. Speakers shall have limited time of three (3) minutes. Please be brief and to the point.

IV. CLOSED SESSION

A Closed Session will be held immediately prior to the open public meeting, and will begin at 5:30 p.m. The open public meeting will begin at 6:00 p.m., or as soon thereafter as the Closed Session is concluded or adjourned for consideration and conclusion at the end of the open public meeting.

1. The City Council will recess to closed session pursuant to Government Code Section 54956.9(a)(d)(1) to confer with its attorney regarding pending litigation which has been initiated formally and to which the City is a party: Claim of Calderon

2. The City Council will recess to Closed Session to consider personnel matters pursuant to Government Code Section 54957(B)(1)- City Manager Evaluation

V. CLOSED SESSION REPORTS

VI. PLEDGE OF ALLEGIANCE

VII. PEACEBUILDERS' PLEDGE

VIII. ADDITIONS/MODIFICATIONS TO THE AGENDA

Items of business may be added to the agenda upon a motion adopted by a minimum 2/3 vote finding that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the agenda being posted. Items may be deleted from the agenda upon request of staff or upon action of the Council.

IX. MAYOR/COUNCIL PRESENTATIONS

- Proclamation –National Recovery Month September 2019

X. PUBLIC COMMENT

At this time any member of the public may address the City Council on items not appearing on the agenda and items of interest to the public that are within the jurisdiction of the Council. Speakers shall have limited time of three (3) minutes. Please be brief and to the point. No action or discussion shall be taken on an item not appearing on the agenda, except that Councilmembers may briefly respond to statements made or questions posed by members of the public.

XI. MAYOR'S REPORT

XII. COUNCILMEMBERS' ANNOUNCEMENTS AND REPORTS

Announcements and Reports on meetings attended by Councilmembers at City of Soledad expense as required by State law (AB1234).

XIII. COUNCILMEMBERS' PRAISE

XIV. YOUTH COUNCIL'S REPORT

XV. PRESENTATIONS

- 2019 Young Legislators Program – Senator Anna Caballero's Office

XVI. CONSENT CALENDAR

All matters listed under the Consent Calendar are considered routine by the City Council and will be adopted by one action of the Council unless any Councilmember has any questions or wishes to make a statement or discuss an item. In that event, the Mayor will remove the item from the Consent Calendar for separate consideration.

C-1 **Approval of Minutes**

a) Joint City Council/Successor Agency Regular Meeting Minutes of August 7, 2019

COUNCIL/AGENCY ACTION: _____

C-2 **Approval of Warrants**

#039034 - #039251

COUNCIL ACTION: _____

C-3 Resolution No. **5532,** A Resolution of the City Council of the City of Soledad Approving Reinstatement of the Laboratory Director Job Classification, Adopting a New Job Description, and Establishing a Salary Range

COUNCIL ACTION: _____

C-4 Resolution No. **5533**, A Resolution of the City Council of the City of Soledad Approving the Job Classification of Senior Water Systems Operator, Adopting a Job Description, and Establishing a Salary Range

COUNCIL ACTION: _____

C-5 Resolution No. **5534**, A Resolution of the City Council of the City of Soledad Considering the Liberty Chapel Church Request for Use of the Soledad Community Center on October 31, 2019 for their Annual Harvest Night Event, and Authorizing Sponsorship of the Event

COUNCIL ACTION: _____

C-6 Receive and Accept the City's Response Letter to the Civil Grand Jury's Report Regarding Rape Kit Processing in Monterey County and Approve Transmittal of the Response Letter

COUNCIL ACTION: _____

C-7 ITEM REMOVED

C-8 Resolution No. **5535**, A Resolution of the City Council of the City of Soledad Approving Construction Services Agreement Change Order No #2 with Teichert Construction, in an Amount not-to-exceed $56,800, for the Gabilan Drive Storm Drain Improvements Project and Authorizing the City Manager to Execute said Change Orders on behalf of the City of Soledad

COUNCIL ACTION: _____

C-9 Resolution No. **5536**, A Resolution of the City Council of the City of Soledad Accepting Dedication of a Reclaimed Water Pipeline Easement as Part of the Reclaimed Wastewater Transmission Pipeline Project

COUNCIL ACTION: _____

C-10 Receive and Accept City of Soledad Monthly Department Activity Reports

COUNCIL ACTION: _____

XVII. BUSINESS

B-1 Consideration of one Appointment to the Soledad Planning Commission

COUNCIL ACTION: _____

B-2 Resolution No. **5537**, A Resolution of the City Council of the City of Soledad Approving an Amendment to Task Order No. 68 with Harris & Associates to Develop a Sanitary Sewer Master Plan and Capital Improvement Plan in the Amount of $34,385 and Authorizing the City Manager to Execute Said Task Order on behalf of the City of Soledad

COUNCIL ACTION: _____

B-3 Resolution No. **5538**, A Resolution of the City Council of the City of Soledad approving a Consulting Services Agreement with PlaceWorks in an amount not to exceed $110,625 for the City of Soledad Zoning Code Update and authorizing the City Manager to execute said agreement on behalf of the City of Soledad

COUNCIL ACTION: _____

XVIII. CITY MANAGER'S REPORT

- Report of September 4, 2019

XIX. COUNCILMEMBERS' ITEMS AND FUTURE AGENDA ITEMS

Comments from the Councilmembers on general items of concern and on matters that they wish to put on future agendas.

XX. ADJOURNMENT

XXI. CERTIFICATION

I, Michael McHatten, City Clerk of the City of Soledad, do hereby certify that a copy of the foregoing Joint City Council/Successor Agency Regular Meeting Agenda was posted at City Hall by Friday, August 30, 2019, at 5:00 p.m.

_____ 08/28/2019

Michael McHatten, City Clerk/Secretary Date

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact City Clerk Michael McHatten at (831) 223-5014. Notification of at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (RCRF 35.102-35.104).

"Any writing or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at City Hall located at 248 Main Street, Soledad, California during normal business hours."

En caso que usted necesite ayuda en leer o en entender este aviso de Junta Publica, usted puede ponerse en contacto con la oficina del Edificio Municipal en 248 Calle Main o llamar al número (831) 223-5014, y el aviso será traducido para usted.

APPENDIX C

Consent Item No. C-1

Minutes

City of Soledad Joint
City Council/Successor Agency
Regular Meeting

September 4, 2019

CALL TO ORDER
Mayor Ledesma called the City Council/Successor Agency Meeting to order at 5:34 p.m.

ROLL CALL

The Following Councilmembers/Agencymembers were present when the meeting was called to order:

Mayor/Chair	Fred Ledesma
Mayor Pro Tem/Vice Chair	Alejandro Chavez
Councilmember/Agencymember	Carla Strobridge Stewart (Arrived at 5:40 p.m.)
Councilmember/Agencymember	Anna Velazquez (Arrived at 5:40 p.m.)
Councilmember/Agencymember	Marisela Lara

THE FOLLOWING COUNCILMEMBER WAS ABSENT

- None

PUBLIC COMMENT ON CLOSED SESSION ITEMS

- None

MEETING RECESS FOR CLOSED SESSION

- 5:35 p.m.

MEETING RECONVENED

- 6:08 p.m.

CLOSED SESSION ITEMS

1. The City Council will recess to closed session pursuant to Government Code Section 54956.9(a)(d)(1) to confer with its attorney regarding pending litigation which has been initiated formally and to which the City is a party: Claim of Calderon

2. The City Council will recess to Closed Session to consider personnel matters pursuant to Government Code Section 54957(B)(1)- City Manager Evaluation

CLOSED SESSION REPORTS

1. City Attorney Michael Rodriquez reported with respect to item no. 1, Council considered the claim and unanimously rejected the claim and gave direction to the attorney.

2. City Attorney Michael Rodriquez reported with respect to item no. 2, there was general discussion of the evaluation process. No other reportable action was taken.

PLEDGE OF ALLEGIANCE was led by Aaron Arriaga

PEACEBUILDERS' PLEDGE was led by Amber Solorio

ADDITIONS/MODIFICATIONS TO THE AGENDA

- None

MAYOR/COUNCIL PRESENTATIONS

- Mayor Ledesma read the Proclamation Honoring National Recovery Month. Sun Street Centers, South County Prevention Coordinator Ms. Darlene Acosta was present to accept the proclamation.

PUBLIC COMMENT

- Resident of Soledad Rosalba Saldana spoke in support of the YMCA.
- Executive Director of Special Kids Connect Lori Luzader spoke in support of the YMCA.
- Resident of Soledad Darlene spoke in support of the YMCA.
- Resident of Soledad Idel Aldaco spoke in support of the YMCA and the REACH program.
- Resident of Soledad Monica Valle spoke in support of the YMCA.
- Resident of Soledad Jesus Sanchez spoke in support of the YMCA.
- Resident of Soledad and Executive Director Joe Gonzales spoke in support of the YMCA.
- Resident of Soledad Laura Galvan asked the Council if there are any updates to report regarding Nielsen's Trailer Park.

MAYOR'S REPORT

- Mayor Ledesma wanted to remind Council of the upcoming ACCAPS semi-annual conference – Marijuana Symposium in Coalinga on September 19, 2019.
- Mayor Ledesma attended the Air Board meeting on August 21, 2019
- Mayor Ledesma attended the Mayor's meeting on August 26, 2019

COUNCILMEMBERS' ANNOUNCEMENTS AND REPORTS

- Councilmember Strobridge Stewart attended the Salinas Valley Promise Press Conference on 8/8. She also attended the Salinas Valley Solid Waste Authority meeting on behalf of Councilmember Lara on 8/15. She attended the county wide Homeless Pet Day on 8/17. She gave a presentation regarding South County Animal Rescue on 8/19 to the Soledad Youth Council.

- Mayor Pro Tem Chavez attended the Salinas Valley Promise Press Conference on 8/8 regarding Hartnell College.

- Councilmember Velazquez reported that there was no MST meeting in the month of August. On 8/9 she met with Araceli Flores from Monterey County Behavioral Health Services regarding resources for the South County youth. On 8/21 she met with CCA regarding the Census 2020. On 8/22 she attended a COPA meeting at Hartnell College that was a part of the Measure T forum. On 8/24 she attended the Family Paint Day at the Soledad YMCA. On 8/28 she attended Dole's Health and Safety Fair. On 8/29 she attended the H2A subcommittee meeting at Soledad City Hall.

COUNCILMEMBERS' PRAISE

- Councilmember Velazquez gave praise to the Girl Scout Group 30223 who started a free library at San Antonio Park in Soledad.

- Councilmember Strobridge Stewart welcomed back Darlene Noriega and thanked Francine Uy for filling in while Ms. Noriega was on leave.

- Mayor Pro Tem Chavez thanked Mr. Anthony Mena, a local coach in Soledad. He has a business called South County Speed Training. He trained kids throughout the summer and charged them a very minimal fee. He has motivated young people to look forward to being healthy and even looking towards college and also being great athletes.

- Mayor Ledesma gave praise to the City staff for being very supportive of each other.

YOUTH COUNCIL REPORT

Youth Commissioner Amber Solorio provided a report on the experience in attending the 8/22 Hartnell College Stake Holders meeting.

Youth Commissioner Aaron Arriaga reported on 8/20 Soledad High school held their annual club carnival. The Youth Commission was given the opportunity to set up a booth and clarify who they are and what they do. They were also able to post information as to dates of future meetings.

On 9/4/19 the Youth Commissioners took a tour of Eden Valley.

They are working on an engagement activity that will help bonding between the upper and lower classmen within the council.

The youth council plans on attending the Parks and Recreation meeting.

PRESENTATIONS

- Senator Anna Caballero Field Representative Vanessa Gonzalez gave a brief presentation and presented a PowerPoint on the 2019 Young Legislators Program that was held on June 22 – July 18, 2019 in the City of Greenfield.

CONSENT CALENDAR

C-1 **Approval of Minutes**

a) Joint City Council/Successor Agency Regular Meeting Minutes of September 04, 2019.

C-2 **Approval of Warrants**

039034 - # 039251

C-3 Resolution No. **5532,** A Resolution of the City Council of the City of Soledad Approving Reinstatement of the Laboratory Director Job Classification, Adopting a New Job Description, and Establishing a Salary Range

C-4 Resolution No. **5533**, A Resolution of the City Council of the City of Soledad Approving the Job Classification of Senior Water Systems Operator, Adopting a Job Description, and Establishing a Salary Range

C-5 Resolution No. **5534**, A Resolution of the City Council of the City of Soledad Considering the Liberty Chapel Church Request for Use of the Soledad Community Center on October 31, 2019 for their Annual Harvest Night Event, and Authorizing Sponsorship of the Event

C-6 Receive and Accept the City's Response Letter to the Civil Grand Jury's Report Regarding Rape Kit Processing in Monterey County and Approve Transmittal of the Response Letter

C-7 ITEM REMOVED

C-8 Resolution No. **5535**, A Resolution of the City Council of the City of Soledad Approving Construction Services Agreement Change Order No #2 with Teichert Construction, in an Amount not-to-exceed $56,800, for the Gabilan Drive Storm Drain Improvements Project and Authorizing the City Manager to Execute said Change Orders on behalf of the City of Soledad

C-9 Resolution No. **5536**, A Resolution of the City Council of the City of Soledad Accepting Dedication of a Reclaimed Water Pipeline Easement as Part of the Reclaimed Wastewater Transmission Pipeline Project

C-10 Receive and Accept City of Soledad Monthly Department Activity Reports

Motion: Mayor Pro Tem Chavez made a motion to approve items C-1 through C-10, with the exception of the removed item of C-7. Motion was seconded by Councilmember Strobridge Stewart and carried by unanimous vote:

Action:

Ayes:	Chavez, Strobridge Stewart, Velazquez, Lara and Ledesma
Noes:	None
Abstain:	None
Absent:	None

BUSINESS

B-1 Consideration of one Appointment to the Soledad Planning Commission

Community and Economic Development Director Brent Slama presented the staff report.

Council Action:
Mayor Fred Ledesma appointed Ms. Sandy R. Fuerte as a Planning Commissioner.

B-2 Resolution No. **5537**, A Resolution of the City Council of the City of Soledad Approving an Amendment to Task Order No. 68 with Harris & Associates to

Develop a Sanitary Sewer Master Plan and Capital Improvement Plan in the Amount of $34,385 and Authorizing the City Manager to Execute Said Task Order on behalf of the City of Soledad

Harris & Associates Senior Project Manager Leon Gomez presented the staff report.

Motion: Councilmember Strobridge Stewart made a motion to approve Resolution No. 5537. Motion was seconded by Councilmember Velazquez and carried by unanimous vote:

Action:

Ayes:	Strobridge Stewart, Velazquez, Chavez, Lara and Ledesma
Noes:	None
Abstain:	None
Absent:	None

B-3 Resolution No. **5538**, A Resolution of the City Council of the City of Soledad approving a Consulting Services Agreement with PlaceWorks in an amount not to exceed $110,625 for the City of Soledad Zoning Code Update and authorizing the City Manager to execute said agreement on behalf of the City of Soledad

Economic Development and Housing Program Manager Jennifer Nieto presented the staff report.

Motion: Councilmember Velazquez made a motion to approve Resolution No. 5538. Motion was seconded by Mayor Pro Tem Chavez and carried by unanimous vote:

Action:

Ayes:	Velazquez, Chavez, Strobridge Stewart, Lara and Ledesma
Noes:	None
Abstain:	None
Absent:	None

CITY MANAGER'S REPORT

Community and Economic Development Director Brent Slama presented the City Manager report for City Manager McHatten.

- City Manager McHatten did circulate an email regarding setting a date for a Ground Break Ceremony for the Premier Cinema site
    - Councilmembers agreed on the date of Saturday, 9/28/2019 at 9:00 a.m.

COUNCILMEMBER'S ITEMS AND FUTURE AGENDA ITEMS

Councilmember Strobridge Stewart thanked the young people that brought up the need for Behavioral Health services in South County. There are efforts being made now to find a location to be able to provide services. She will also be having a medical procedure on 10/04 and will not be able to attend the AMBAG or the SVSWA meetings in October. Also, she will not be able to attend the AMBAG meetings in the future due to meetings she needs to attend at her place of employment, and she ask that a different councilmember be appointed to that board. AMBAG meets the 2nd Wednesday of every month in Marina. As a reminder, SnipBus will be in Soledad 09/16 and 09/17, also Dog Days of Summer will be held on 09/28.

Councilmember Velazquez would like to move forward with an MOU between the City and the school district. She would also like to move forward with the $10,000 that was allocated towards Leadership and development and start looking at what types of trainings will be held. She would also like Voler to do a video about the Youth Council focusing on what the Youth Council has been able to do so far. Regarding behavioral health; she would also like to move forward with having a shared space or forum for the residents and youth in Soledad so they can come and talk about their anxieties.

Mayor Ledesma gave praise to City Manager McHatten and Superintendent Vanoli for moving forward with sharing the school facility. Also, Soledad owns a shooting range; there is an opportunity to bid on the gun range and so this is a great thing for Soledad. Also, there will be a housing project happening for teacher housing; we should show that we are committed to education and should find a way to give the school the land so that the school district can build homes for teachers in Soledad.

ADJOURNMENT

Mayor Ledesma adjourned the Regular meeting at 7:29 p.m.

Minutes Approved: October 2, 2019

FRED J. LEDESMA, Mayor/Chairman

MICHAEL MCHATTEN, City Clerk/Agency Secretary

APPENDIX D

A G E N D A
CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
Council Chamber
440 Harcourt Avenue
Thursday, February 20, 2020
7:00 PM

1. CALL TO ORDER

2. ROLL CALL – ESTABLISHMENT OF QUORUM

Ian N. Oglesby	Mayor
David R. Pacheco	Mayor Pro Tem
Jason Campbell	Council Member
Jon Wizard	Council Member
Alissa Kispersky	Council Member

3. INVOCATION AND PLEDGE OF ALLEGIANCE

4. REVIEW OF AGENDA

If there are any items that arose after the 72-hour posting deadline, this is the point in the meeting where a vote may be taken to add the item to the agenda. (A 2/3-majority vote is required).

5. PUBLIC COMMENT

Members of the public wishing to address the City Council on matters within the jurisdiction of the City of Seaside, but not on this agenda, may do so during the Public Comment period for up to three minutes. Public Comments on specific agenda items are heard under that item. For the public record, please state your name.

6. PUBLIC AGENCY COMMUNICATIONS

This is a time specifically set aside for representatives of public agencies to make brief comments of general interest to the City Council and the community.

7. PRESENTATIONS

A. POLICE DEPARTMENT 2019 ANNUAL PUBLIC SAFETY REPORT

B. 2019 BUSINESS OF THE FOURTH QUARTER

C. MONTEREY PENINSULA HOUSING COALITION

8. CONSENT AGENDA

A. APPROVE MINUTES FROM FEBRUARY 6, 2020

RECOMMENDATION: That the minutes be reviewed and approved.

B. APPROVE AND FILE CITY CHECKS

RECOMMENDATION: Approve and file the accounts payable and wired payments made during the period of January 25, 2020 through February 7, 2020 including the payroll and benefits checks, direct deposits and wired payments related to the pay period ending January 30, 2020. Total Accounts Payable and Payroll for the above referenced period is $1,513,766.89.

C. PROCLAMATION DECLARING FEBRUARY 2020 AS BLACK HISTORY MONTH IN THE CITY OF SEASIDE

D. APPROVE CO-SPONSORSHIP AND WAIVE ALL FEES RELATED TO THE 2020 SUSTAINABLE SEASIDE 9TH ANNUAL SEASIDE EARTH DAY CELEBRATION AT SEASIDE CITY HALL LAWN ON APRIL, 26 2020

RECOMMENDATION: Approve a request from Sustainable Seaside's request for co-sponsorship to waive all fees in the approximate amount of Two Thousand, Eight Hundred and Seventy-Six Dollars ($2,876.00) related to the Seaside Sustainable 9th Annual Seaside Earth Day Celebration at City Hall Lawn on April 26, 2020.

E. APPROVE CITY RESPONSE TO GRAND JURY REPORT ON RAPE KIT PROCESSING

RECOMMENDATION: Authorize submittal of letter.

9. PUBLIC HEARING

A. ADOPTION OF AN ORDINANCE AMENDING SEASIDE MUNICIPAL CODE 6.04.170 POTENTIALLY DANGEROUS AND VICIOUS DOGS (SECOND READING - ROLL CALL VOTE)

RECOMMENDATION: Adopt the second reading of the draft ordinance.

B. ADOPTION OF AN ORDINANCE MODIFYING ELECTION SIGN CODE REGULATIONS AND MODIFYING THE FEE SCHEDULE AS APPROPRIATE (SECOND READING - ROLL CALL VOTE)

RECOMMENDATION: Adopt the second reading of the draft ordinance modifying election sign code regulations and modifying the fee schedule as appropriate.

10. BUSINESS ITEMS

A. RECEIVE THE 2019-2020 MID-YEAR BUDGET REPORT, ACCEPT AND FILE THE REPORT, PROVIDE DIRECTION TO STAFF AND CONSIDER ADOPTION OF A RESOLUTION APPROVING THE PROPOSED BUDGET ADJUSTMENTS

RECOMMENDATION: Receive the FY 2019-2020 Mid-Year Budget Report, accept and file the report, provide direction to staff, and consider adoption of a Resolution approving the proposed budget adjustments.

B. REVIEW THE ESTABLISHMENT OF A COMMUNITY POLICING ADVISORY COMMITTEE

RECOMMENDATION: Discuss options relative to the establishment of a Community Policing Advisory Committee.

C. REVIEW ORDINANCE AND RESOLUTION REGARDING PLACEMENT OF ITEMS ON THE COUNCIL AGENDA

RECOMMENDATION: Provide clear direction on agenda setting procedures.

11. MAYOR, CITY COUNCIL, CITY MANAGER AND CITY ATTORNEY COMMENTS AND REPORTS ON COMMITTEE ASSIGNMENTS

This is a time specifically set aside for members of the City Council, the City Manager and City Attorney to make brief comments of general interest to the community, make requests that items be added to future City Council meeting agendas as necessary and report on committee assignments.

12. COUNCIL MEMBER REQUESTS

A. REQUEST TO AGENDIZE A DISCUSSION OF THE MUNICIPALITIES, COLLEGES, SCHOOLS INSURANCE GROUP (MCSIG) PROVISION OF HEALTH BENEFITS TO ENSURE EQUITABLE, INCLUSIVE AND NON-DISCRIMINATORY PROVISION OF HEALTH BENEFITS (WIZARD)

13. ADJOURNMENT

Next Regularly Scheduled Meeting:
March 5, 2020
7:00 PM

The City of Seaside is committed to providing accessible facilities and accommodating people with disabilities in all of its services programs and activities. If special considerations are needed by any person to fully participate in this meeting, contact the City Clerk at 899-6707 no fewer than two business days prior to the meeting to allow reasonable arrangements. The City Council chamber is equipped with a portable microphone and assisted listening devices are available at all meetings. City Council Meetings that are held in the City Council Chambers are broadcast live to all Seaside residents on Comcast Channel 25 and U-verse Channel 99. Live streamed meeting videos as well as videos of past meetings are available on the City's website at: http://www.ci.seaside.ca.us/129/City-Council-Committee-Agendas

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Government Code Section 54954.2(a) or Section 54956.

APPENDIX E

SEASIDE CITY COUNCIL
440 Harcourt Avenue
Seaside, CA 93955
www.ci.seaside.ca.us
Telephone 831-899-6707
Fax 831-718-8594

The Honorable Lydia M. Villarreal
Presiding Judge of the Superior Court of California
County of Monterey
240 Church Street
Salinas, CA 93901

February 20, 2020

Re: 2018-2019 Monterey County Civil Grand Jury Final Report – "Rape Kit Processing in Monterey County"

Dear Judge Villarreal,

This letter is written in response to the Monterey Civil Grand Jury Final Report - "Rape Kit Processing in Monterey County." As per the report dated June 24, 2019, this letter shall serve as the response to that report pursuant to Penal Code section 933 and 933.05. The responses contained in this correspondence were approved by the City of Seaside City Council at their regular meeting on...

Before responding to the specific findings and recommendations contained in the report, I would like to assure you that the City of Seaside is committed to ensuring the Seaside Police Department (SSPD) provides professional law enforcement services in a contemporary manner. The SSPD recognizes the importance of employing well-trained sexual assault investigators to thoroughly investigate every sexual assault report. Each month, the SSPD visits with regional law enforcement agencies, and the Monterey County District Attorney's Office, to discuss myriad issues, including the coordination of sexual assault cases.

Our comments follow in the order that they were presented in the report. The actual report language is displayed in **bold** type for readability.

FINDINGS

Finding 1 – LEAs in Monterey County lacked awareness and provided unclear and inconsistent information as to whether there are any backlogged rape kits.

The SSPD meticulously tracks and is fully aware of the status of sexual assault rape kits that have been collected in connection with investigations led by the SSPD.

Finding 2 – The lack of a centralized place to post information has resulted in a lack of consistency in the way that LEAs manage and track sexual assaults.

The SSPD participates in a monthly meeting with other law enforcement agencies, and the District Attorney's Office, to coordinate sexual assault investigations. The SSPD is part of the

Sexual Assault Response Team (SART), which works with Sexual Assault Nurse Examiners (SANE) during the investigation. DNA evidence obtained is submitted to the Rapid DNA Service (RADS). Additionally, the SSPD reports the status of sexual assault forensic evidence through the Sexual Assault Forensic Evidence Tracking (SAFE-T) to the California Department of Justice, as is required by PC 680.4.

Finding 3 – At the beginning of this investigation, not all the LEAs were prepared to report the Rape Kit status information to the CDOJ as required by PC 680.4.

The SSPD has reported the Rape Kit status information to the CDOJ as required by PC 680.4.

Finding 4 – There is advanced training available for sexual assault investigators, but LEAs are instead relying upon senior investigators to provide "on the job training to other investigators within their respective departments."

The SSPD sends all detectives to a Sexual Assault Investigator Course when assigned to the SSPD Investigations Division. The three detectives assigned to the SSPD Investigations Division have all completed the California Commission on Peace Officer Standards and Training (POST) Police, Institute of Criminal Investigation (ICI) Sexual Assault Investigator Course.

Finding 5 – Training for advanced skills in the forensics of sexual assault investigations is not prioritized in the budgeting process.

The City of Seaside and SSPD place a significant emphasis on professional development and specialized training, as reflected in our budget ($117,950). We ensure our detectives have the most relevant training available and our budget supports it.

Finding 6 – Some LEAs rely on cross-training less experienced patrol officers to supplement understaffed investigative teams rather than prioritizing the strategic increase of well-trained investigators.

The SSPD prioritizes sexual assault investigation training for our detectives. Moreover, the SSPD has officers that were previously assigned as detectives and attended the sexual assault investigation training who are currently assigned to patrol.

Finding 7 – All jurisdictions can expedite the investigations of rape crimes through access to the RADS processing to facilitate timely resolution of rape cases.

The SSPD has access to and utilizes the RADS processing system.

Finding 8 – Most LEAs in Monterey County have implemented DNA testing protocols established by the CDOJ which have reduced the likelihood of unprocessed DNA evidence.

The SSPD has implemented DNA testing protocols that are in compliance with CDOJ.

Finding 9 – There is no centralized authority coordinating all LEAs in Monterey County regarding collection, processing and reporting of sexual assaults.

The SSPD complies with all state mandates and employs contemporary best practices to investigate sexual assaults. The SSPD attends monthly meetings with other Monterey County Sexual Assault Investigators, including the District Attorney, to share information and coordinate any investigations which might involve other jurisdictions.

RECOMMENDATIONS

Recommendation 2 – By January 15, 2020, the governing bodies of all Monterey County LEAs should assign a representative to participate in the DA – led centralized reporting initiative.

As aforementioned above, the SSPD participates in a monthly meeting with the District Attorney's office regarding sexual assaults. The SSPD will continue to participate with the District Attorney's Office, and other law enforcement entities, to ensure crimes are properly investigated and coordinated.

Recommendation 3 – By July 1, 2019, every Monterey County LEA should report to the CDOJ the required data outlined in PC 680.4.

The SSPD reported by July 1, 2019, and will continue to report the required data to the CDOJ outlined in PC 680.4.

Recommendation 4 – By July 1, 2019, and annually thereafter, every Monterey County LEA should report to their governing body and the public the required data outlined in PC 680.4.

The SSPD will work with the Seaside City Attorney to determine what can publicly be reported and will annually report items related to PC 680.4 on the SSPD webpage.

Recommendation 5 – By July 15, 2020, every Monterey County LEA should develop a funding source, such as grants, for additional expertise training and recertification within the Sexual Assault and Forensic Division.

The SSPD consistently searches for grant opportunities and leverages any successful grant awards with the SSPD operating budget.

Recommendation 6 – By fiscal year 2020-2021, every Monterey County LEA should add or dedicate certified staff for Sexual Assault Investigations and include that increased cost in their budgets.

As was previously described, all SSPD detectives are California POST trained in sexual assault investigations. All of the SSPD detectives are assigned sexual assault investigations.

We hope that this information addresses the Grand Jury's findings and recommendations. Please contact SSPD Chief Abdul D. Pridgen if you have any questions or require additional information.

Respectfully,

Ian Oglesby

Mayor

APPENDIX F

CITY OF DEL REY OAKS

650 CANYON DEL REY RD. · DEL REY OAKS, CALIFORNIA 93940
PHONE (831) 394-8511 · FAX (831) 394-6421

The Honorable Stephanie E. Hulsey
Judge of the Superior Court of California
County of Monterey
240 Church Street
Salinas, CA 93901

September 1, 2019

Re: 2018-2019 Monterey County Civil Grand Jury Final Report – "Rape Kit Processing in Monterey County"

Dear Judge Hulsey,

This letter is written in response to the June 24, 2019 Monterey Civil Grand Jury Final Report - "Rape Kit Processing in Monterey County" (Report), and shall serve as the City's response pursuant to Penal Code sections 933 and 933.05. The responses contained in this correspondence were approved by the City of Del Rey Oaks City Council at their regular meeting of August 27, 2019.

The City of Del Rey Oaks Police Department (the "Department") understands its responsibility in investigating sexual assault reports in a professional and timely manner. The mission statement of the Department explicitly lists professional law enforcement and dedicated community service among its priorities. As you may be aware, the Department recently merged with the Monterey Regional Airport Police Department in an effort to improve efficiencies, and to provide higher quality services to the City and the Airport. As a result of the merger, the Department's training budget for specialized investigations, such as sexual assault investigations, nearly tripled.

The Department has also initiated a Patrol Detective Program that strives to provide a level of investigative training to its investigators similar to those that larger agencies with full-time investigative staff are able to provide to their personnel. This includes training in the area of sexual assault investigation. The Department also participates in on-going and regular meetings with other law enforcement agencies and the District Attorney's Office to discuss and coordinate sexual assault cases.

The City's comments follow in the order that they were presented in the Report. The Report's findings and recommendations are displayed in **bold** type. It should be noted that no in-person discussion of these laws, processes, or the Department's procedures regarding sexual assault investigation or reporting took place between the Grand Jury and the City of Del Rey Oaks. Also, no officials from the Department were interviewed for this report.

Please note, for all of the following responses, the City of Del Rey Oaks can, of course, only provide information as it regards the City and the Department. The City cannot respond on behalf of other Monterey County Local Enforcement Agencies (LEAs) mentioned in the Report.

FINDINGS

Finding 1 – LEAs in Monterey County lacked awareness and provided unclear and inconsistent information as to whether there are any backlogged rape kits.

DISAGREE WHOLLY. The Department tracks and is aware of the status of sexual assault rape kits that have been collected in relation to investigations conducted by the Department. Due to Del Rey Oaks' low crime rate, and extremely low rate of sexual assault incidents requiring the collection of these kits, the Department does not have a backlog of such kits, and the kits are well managed.

Finding 2 – The lack of a centralized place to post information has resulted in a lack of consistency in the way that LEAs manage and track sexual assaults.

DISAGREE WHOLLY. The Department participates in regular meetings with other law enforcement agencies and the District Attorney's Office to coordinate sexual assault investigations as necessary. The Department is part of the Sexual Assault Response Team (SART), which works with Sexual Assault Nurse Examiners (SANE), during investigations. Any DNA evidence obtained is submitted to the Rapid DNA Service (RADS). The Department also reports the status of sexual assault forensic evidence through the Sexual Assault Forensic Evidence Tracking (SAFE-T) program though the California Department of Justice (CDOJ), as is required by Penal Code section 680.4.

Finding 3 – At the beginning of this investigation, not all the LEAs were prepared to report the Rape Kit status information to the CDOJ as required by PC 680.4.

DISAGREE WHOLLY. The Department has reported Rape Kit status information to the CDOJ as required by Penal Code section 680.4.

Finding 4 – There is advanced training available for sexual assault investigators, but LEAs are instead relying upon senior investigators to provide "on the job training to other investigators within their respective departments."

DISAGREE WHOLLY. The Department is one of the smallest Police Departments on the California Central Coast. All Department personnel are assigned to patrol duties, except for the Chief of Police. The Department has no dedicated investigative staff, as department size and case load does not justify such a position. The Department has, however, initiated a Patrol Detective Program, in which selected officers are trained by the California Commission on Peace Officer Standards and Training (POST) and the Institute of Criminal Investigation (ICI), in courses for specialized investigations, including a sexual assault investigation course. When a sexual assault does occur, these specially trained officers are removed from patrol duties and are allowed to devote themselves full time to investigation of the assault. These officers are the primary investigators for sexual assault crimes in the City.

Finding 5 – Training for advanced skills in the forensics of sexual assault investigations is not prioritized in the budgeting process.

DISAGREE PARTIALLY. With the recent consolidation of the Monterey Regional Airport Police

Department and the Department, one of the priorities identified for the new combined department has been training. The Department *has nearly tripled its training budget* over the last two years to ensure critical patrol and investigation training is being provided to staff. This includes ICI sexual assault investigations training for the Department's Patrol Detectives.

Finding 6 – Some LEAs rely on cross-training less experienced patrol officers to supplement understaffed investigative teams rather than prioritizing the strategic increase of well-trained investigators.

DISAGREE PARTIALLY. The Department does not have the resources or case load to justify full-time investigators. It does, however, utilize a Patrol Detective Program that places a priority on training detectives in sexual assault investigations as previously described. Additionally, the Department has officers and sergeants that were previously assigned as detectives in other large urban California police agencies, including a 20-year Los Angeles Police Department supervisory gang-homicide detective. These personnel (as well as other selected officers) are highly experienced, well trained, have been through ICI courses, and have attended, or will be attending, sexual assault investigation training as described above.

Finding 7 – All jurisdictions can expedite the investigations of rape crimes through access to the RADS processing to facilitate timely resolution of rape cases.

AGREE. The Department has access to and utilizes the RADS processing system.

Finding 8 – Most LEAs in Monterey County have implemented DNA testing protocols established by the CDOJ which have reduced the likelihood of unprocessed DNA evidence.

AGREE. The Department has implemented DNA testing protocols that are in compliance with CDOJ guidelines.

Finding 9 – There is no centralized authority coordinating all LEAs in Monterey County regarding collection, processing and reporting of sexual assaults.

DISAGREE WHOLLY. The Department complies with all state mandates and employs contemporary best practices to investigate sexual assaults. The Department attends regular meetings with other Monterey County Sexual Assault Investigators, including the District Attorney, to share information and coordinate any investigations that may be occurring in other jurisdictions as is necessary.

RECOMMENDATIONS

Recommendation 1 does not apply to this agency.

Recommendation 2 – By January 15, 2020, the governing bodies of all Monterey County LEAs should assign a representative to participate in the DA – led centralized reporting initiative.

The Department will assign a representative to participate in the District Attorney led centralized reporting initiative upon its creation by the District Attorney's Office. (As previously described, the Department already participates in regular meetings with the District Attorney's office regarding sexual assaults. And will continue to do so going forward.

Recommendation 3 – By July 1, 2019, every Monterey County LEA should report to the CDOJ the required data outlined in PC 680.4.

This recommendation has been implemented. Prior to July 1, 2019, the Department report to the CDOJ the required data outlined in Penal Code section 680.4. Additionally, the Department will continue to report such data to the CDOJ going forward.

Recommendation 4 – By July 1, 2019, and annually thereafter, every Monterey County LEA should report to their governing body and the public the required data outlined in PC 680.4.

This recommendation has already been partially implemented. The Department will work with the Del Rey Oaks City Attorney's Office to determine what can publicly be reported and will report items related to Penal Code section 680.4 on the Department's webpage on an annual basis.

Recommendation 5 – By July 15, 2020, every Monterey County LEA should develop a funding source, such as grants, for additional expertise training and recertification within the Sexual Assault and Forensic Division.

This recommendation has already been implemented. The Department continually researches grant opportunities, and leverages successful grant awards with the Departments operating budget.

Recommendation 6 – By fiscal year 2020-2021, every Monterey County LEA should add or dedicate certified staff for Sexual Assault Investigations and include that increased cost in their budgets.

This recommendation has already been implemented. As previously described, the Department has highly experienced investigative staff and has or will be sending all investigators through ICI courses, to include California POST approved sexual assault investigations training.

We hope that this information addresses the Grand Jury's findings and recommendations. Please contact Del Rey Oaks Chief of Police Jeffrey J. Hoyne should you have any questions or require additional information.

Respectfully,

Alison Kerr
Mayor