

MONTEREY COUNTY CIVIL GRAND JURY



2017-2018 FINAL REPORT

JUNE 25, 2018

**MONTEREY COUNTY
CIVIL GRAND JURY**

2017 -2018

FINAL REPORT

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Cover photo taken by: Arnoldo Salas

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Monterey County Civil Grand Jury

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



June 25, 2018

The Honorable Stephanie E. Hulsey
Judge, Superior Court of California
County of Monterey
240 Church Street
Salinas, CA 93907

Re: 2017 – 18 Monterey County Civil Grand Jury Final Report

Dear Judge Hulsey:

On behalf of my fellow jurors on the 2017-18 Monterey County Civil Grand Jury, I am pleased to present our final report. The members of the jury dedicated their one- year term of service to investigating, researching, writing and publishing reports on topics that will hopefully affect positive change in Monterey County. These reports are a result of numerous hours of research, collaboration and a strong desire to make a difference within our county.

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 was many times overwhelming, while at the same time educational, allowing us an insight into how our local governments operate. We wish to thank you for your assistance and support throughout the year. A special thank you to Chief Assistant County Counsel Les Girard for being available to assist with our legal questions, and 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 allowing us to serve our fellow citizens.

Respectfully,


Sandy Haney, Foreperson
2017-2018 Monterey County Civil Grand Jury

2017-2018 MONTEREY COUNTY CIVIL GRAND JURY ROSTER

OFFICERS

Foreperson	Sandy Haney
Foreperson Pro Tem	Mary Lou McKenney
Secretary	Mary Solseng
Corresponding Secretary	Katherine Lester

JURORS

Clara Reyes Baber	Salinas
Debby Beck	Pacific Grove
Sara Benevento	Royal Oaks
Robert Boshears	Pacific Grove
Sandy Haney	North County
Carol A. Johnson	Monterey
Mary Lou McKenney	Royal Oaks
Kenneth Rich	Carmel
Peter H. Richmond	Del Rey Oaks
Steven Rubin	Monterey
Arnoldo Salas	Salinas
Mary Solseng	Del Rey Oaks
Robert Thornton	Salinas
Howard Timm	Carmel



Photo taken by: Patrick Haney

Right back row from right to left: Howard Timm, Kenneth Rich, Clara Baber, Arnolando Salas

Middle row from left to right: Sandy Haney, Mary Solseng, Mary Lou McKenney, Debby Beck, Robert Thornton, Denise Vienne, Peter Richmond

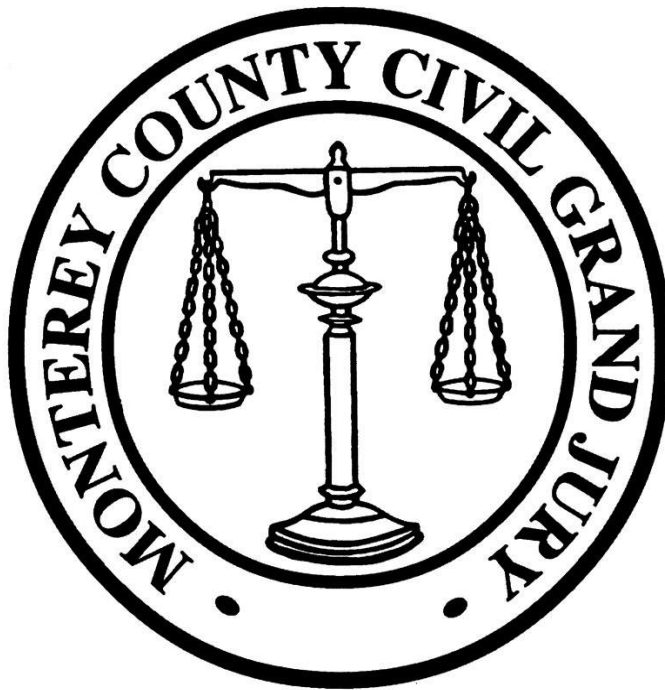
First Row left to right: Honorable Stephanie E. Hulse, Sara Benevento, Steve Rubin and Carol Johnson

Not Pictured: Robert Boshears, Katherine Lester

2017-2018 MONTEREY COUNTY CIVIL GRAND JURY

Mission Statement

The mission of the Monterey County Civil Grand Jury is to conduct independent inquiries and to respond to citizen complaints concerning any government agency, municipality, or special district within Monterey County. The reports of the Civil Grand Jury will provide a clear picture of the functioning of the organizations. Recommendations for improvement will be made, and commendations will be offered when effectiveness, efficiency, or excellence is found.



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. Hulse
Judge of the Superior Court
County of Monterey
240 Church Street
Salinas, CA 93901



PROJECT BELLA

SUMMARY

Project Bella is the name given to the plan to develop a luxury hotel at the privately owned site of the American Tin Cannery building at 125 Ocean View Boulevard in the City of Pacific Grove. This location is adjacent to the Monterey Bay Aquarium and Cannery Row, which are major tourist attractions on the Monterey Peninsula. The project was announced to the public by representatives of the City and the developer, Domaine Pacific Grove in a press release on August 24, 2015.¹ Inspired by the prospect of significant revenue for the City, Project Bella was pursued without due diligence.

A citizen complaint was filed with the Monterey County Civil Grand Jury (Jury). City administration came under sharp public criticism for its handling of this project including allegations that the City Manager had accepted gifts and cash from the developer.

Despite the optimism expressed in the initial press release, work on the project ceased by the end of September 2016.

¹ Appendix A: "Publicity Release", Armanasco Public Relations Inc., 8/24/15

The focus of this investigation was to learn why a project launched with such high hopes in 2015 became dormant a year later, and what part the City played in the process.

Some key findings from the Jury investigation are the determination that the City Manager did not accept gifts from the developer, that alleged missing funds were ultimately accounted for, and that the City spent over \$100,000 which was never reimbursed.

BACKGROUND

The City of Pacific Grove is a built-out city; available building space, particularly in the downtown core, is practically non-existent. For that reason, demolition and reconstruction play a much greater role than might be found in other cities that have more available vacant land. Project Bella was such a project; it would remove an under-used structure and replace it with one that would be attractive to tourists and businesses, as well as serving as a showcase for quality environmental design. For this reason, the City and its Development Director welcomed ideas that might improve the City's revenue and profile.

Discussions regarding such a project began as early as 2011. By 2015, a developer had been located and preliminary planning and contract writing were well underway. The course of this planning and the perfection of the contracts proved to be far from smooth. The City started preliminary work without collecting adequate deposits from the developer. The contracts were written and re-written many times, with different terms being added and deleted. Some were signed, some were unsigned.

As a result, there never was a legal "Project Bella". In spite of this, the work continued. Unfortunately, the lack of careful preparation proved fatal, and the project stalled and failed, resulting in a loss of more than \$100,000 to the City.

APPROACH

The Monterey County Civil Grand Jury (Jury) initiated this investigation in response to a citizen complaint it received. Part of the Jury's duty is to:

*"...examine the books and records of any incorporated city ...located in the county. ...the Grand Jury may investigate and report on the operations, accounts and records of the officers, departments and functions and the method or system of performing the duties of any such city ...and make such recommendations as it may deem proper and fit."*²

² California Penal Code ss 925a

It is important to note that the Civil Grand Jury does not investigate criminal charges. Criminal investigations are undertaken by the Criminal Grand Jury. The Civil Grand Jury is neither empowered to investigate private entities nor individuals. Because of the nature of some accusations that had been made against the city and its administration in the media and elsewhere, the Jury obtained the advice of County Counsel before proceeding with this investigation. Since Domaine Pacific Grove (Domaine)³ and the ownership of the American Tin Cannery (ATC) are non-governmental entities, the Jury did not investigate their actions.

The jurors were aware of reports in the media, but the facts and conclusions presented in this report are based on interviews with:

- Past and present City staff and Council
- Other willing individuals associated with the project

The Jury also reviewed several hundred pages of documents furnished by the City and others, including:

- Email
- City council agendas
- City Council minutes
- Financial documents
- City employment contracts

DISCUSSION

The Jury found that the information received during the investigation addressed two distinct areas:

- Administration and oversight of the project
- The City Manager

³ All references to “Domaine”, Domaine Hospitality” and “Domaine Pacific Grove” are understood to be the same entity for purposes of this report.

The Administration and Oversight discussion deals with the contracts, finances, and communication issues. The City Manager section addresses the hiring, the terms of the hire, and the questions of financial improprieties.

Administration and Oversight

Communication Failures

One of the factors that contributed to citizen concerns about this project was the lack of transparency shown by City officials. The Jury found that the City was often slow to respond and sometimes gave incomplete answers. Had the City been open to questions, and ready to look into and correct problems that were revealed, they might have avoided many of the mistakes that were subsequently made, and have established a working partnership with the citizenry. This lack of transparency resulted in the need for private citizens and the press to obtain documentation from the City under the California Public Records Act.⁴ Public outcry led to allegations that a misappropriation of funds had occurred. In order to investigate these allegations, the City hired the Jackson Lewis law firm. The Jackson Lewis investigation found that all Project Bella expenses that had been agreed to by the developer had been reimbursed to the City, and that Ben Harvey, the City Manager, was free of any wrong-doing.

The City Was Not Prepared

The scope and complexity of Project Bella was beyond that of any project that the relatively small city had attempted previously. It became clear over the course of the Jury's investigation that the tracking and accounting required by a project of this size was more than the City was accustomed to managing. There was no system in place to keep track of various versions of contracts as they went through the negotiating process between the City and Domaine. In addition, it was impossible to determine the cost of staff time, as there was no system in place to account for employees' time by project.

The City did not conduct a background investigation of Domaine or its principals to determine financial strength or previous experience in completing a comparable project. When the Jury asked Mr. Harvey about this, his response was that it was not necessary because, "it was not a city project or partnership."⁵ While this is true, without any knowledge of the developer or a planned operator of the hotel, it was imperative that the City obtain deposits from the developer that were adequate to cover all expenses well in advance of the start of the project. On the contrary, not only did the City fail to secure adequate deposits, it never even had a valid building application from the developer, nor had it received an application fee.

⁴ http://ag.ca.gov/publications/summary_public_records_act.pdf

⁵ Ben Harvey Interview September 27, 2017

An election was necessary to approve a zoning change that would allow hotel use at the ATC location. Domaine requested that a special election be held. The City agreed to pay for this special election (that would cost more than a regularly scheduled election), with the understanding that reimbursement would be made by Domaine. Despite having received no deposit from Domaine to cover expenses, the City proceeded.

Reimbursement Agreements

Documents reviewed by the Jury during its investigation of Project Bella disclosed shortcomings in the financial record keeping and document controls of the City. Central to understanding the financial costs to the City are the Reimbursement Agreements. Public allegations of a loss to the City of Pacific Grove of over \$100,000⁶ claimed that the majority of this loss arose from mishandling Reimbursement Agreements, which allowed Domaine to avoid paying agreed upon costs for work on the Local Coastal Plan (LCP).⁷

On January 20, 2016, the City Council approved a Reimbursement Agreement that called for Domaine Hospitality to reimburse the City for the costs incurred for the special election needed to change the City's zoning laws to permit hotel usage at the American Tin Cannery site. The approval for this election was given in spite of the fact that a notice of incomplete application for Project Bella had been issued on November 9, 2015. It should also be noted that on March 26, 2016 the City Council had approved \$433,613⁸ for environmental impact work for Domaine, a full month before the re-zoning occurred, and without a Reimbursement Agreement that was signed by Domaine.

The February 17, 2016 City Council agenda included the authorization to negotiate a master Reimbursement Agreement with Domaine. The agreement included a requirement that Domaine must:

“...reimburse the City for the following: (1) Costs of the Consultant-Prepared Environmental Impact Report (EIR) and supplemental staff/consultant resources to manage the EIR; and (2) additional costs incurred by the City regarding the acceleration of Pacific Grove's Local Coastal Program Land Use plan and Implementing Actions Program.”

The Reimbursement Agreement submitted to, and approved by, the City Council at that February 17, 2016 meeting was signed by the City, but not by Domaine. As indicated below, a rewritten Reimbursement Agreement signed by all parties, was not completed until June 14, 2016.

⁶ <http://www.montereybaypartisan.com/tag/project-bella/>

⁷ <https://www.coastal.ca.gov/lcps.html>

⁸ Council Minutes 3/26/16

Through its interviews, the Jury did not discover anything to indicate that the City Council was aware that the approved Reimbursement Agreement had been re-written.

The rewritten Agreement was signed by both the City and Domaine on June 14, 2016. This agreement did not include the clause for reimbursement of costs incurred by accelerating work on the LCP. The agreement did include a provision for reimbursement for the costs of City staff time. Despite that, in its review of the documents furnished by the City, the Jury found that there was no system in place to collect and record the cost of staff time spent on Project Bella. This version of the agreement was signed by all parties, but was never presented to the City Council.

The major difference between the two Reimbursement Agreements is that the February agreement included an understanding that Domaine Hospitality would pay "...additional costs associated with the acceleration of City's Local Coastal Program...". The June agreement did not include this clause.

The February 2016 Reimbursement Agreement was approved by the City Council and signed only by the Mayor and City Attorney. The June 2016 Reimbursement Agreement was signed by all parties, but was not presented to the City Council for approval. To be valid, the Reimbursement Agreement would have to have been approved by the City Council **and** be signed by all parties.

As noted above, the City Council was not aware that the February Reimbursement Agreement was replaced with the one signed in June. According to emails⁹ obtained by the Jury, this substitution was necessary because the Reimbursement Agreement submitted to the City Council was not what had been verbally agreed to by all parties.

In commenting on the propriety of this action, the Jackson Lewis PowerPoint presentation to the City Council states:

*"...Council did not approve a specific agreement"*¹⁰

However, the Mayor and the City Clerk signed the "specific" agreement at the meeting, which shows that the Agreement was indeed present at the meeting, and was the intended Agreement.¹¹

In spite of the effort expended in crafting the various Reimbursement Agreements, none of them were valid:

⁹ Appendix B: email: Jason Retterer, L&G Attorneys to Heidi Quinn, Assistant City Attorney

¹⁰ Jackson Lewis PowerPoint <https://www.cityofpacificgrove.org/sites/default/files/city-council/2017/7-19-2017/city-council-7-19-2017-2a-pacific-grove-presentation-meeting.pdf>

¹¹ Council Minutes 2/17/16, Reimbursement Agreement 2/17/16

- The February 2016 Reimbursement Agreement was invalid because it had not been signed by all parties
- The June 2016 Reimbursement Agreement was invalid because it had not been submitted to the City Council for approval

At the same February 17, 2016 meeting, the City's Economic Development Director reported that an estimated \$35,000 of staff labor had been devoted to Project Bella to date,¹² which under the terms of the Reimbursement Agreement, would be covered by Domaine. From this date forward there was no further accounting or estimate of the amount of staff time the City spent on this project, due to the absence of any appropriate time accounting method.

The special election to re-zone the ATC parcel was held on April 19, 2016 and approved by the voters. The City paid \$79,987.97 for this special election without having secured any deposit from Domaine. On August 10, almost four months after the special election was held, the City received a full reimbursement of \$79,987.97.

The first of the two \$50,000 deposits which had been agreed on was received on June 8, 2016. This date was three months after the authorization of the \$433,613 approved by the City Council for preliminary environmental work.

There is no doubt that the City staff, Council and Domaine intended to sign an agreement. However, there was no fully executed Reimbursement Agreement, and the lack of such an agreement left the City potentially liable for hundreds of thousands of dollars.

The City received three reimbursements from, or on behalf of, Domaine:

- June 8, 2016 a check for \$50,000.00
- August 10, 2016 a check for \$79, 987.97
- Early August, a check for \$50,000.00

In early August, 2016 the City received the second of two \$50,000 reimbursements. This check was paid on behalf of Domaine by David Armanasco. This payment was handed to the City Manager, who in turn gave it to the Finance Department. The City Finance Department credited Mr. Armanasco, himself, for the check, rather than Project Bella. Over a month of searching followed trying to locate the check. The delay of over one month in recording this check correctly, resulted in an erroneous allegation that the City Manager had misappropriated \$50,000 of City funds.

¹² Council minutes 2/17/16

This second reimbursement brought the total amount received from Domaine to \$179,987.97.

On August 11, 2016, Domaine's attorneys wrote to City Manager Ben Harvey saying, "...Domaine will commit to reimbursing the City for a portion of LCP costs..."¹³

At the September 21, 2016 City Council meeting the City Manager stated:

*"...an additional payment of \$50,000 will be delivered to the City on September 30. Upon receipt of that payment the City will have received total reimbursement for all project costs incurred to date."*¹⁴

This statement was repeated to the Jury by the City Manager in an interview, but is not consistent with documents the Jury received from the City. As noted above, the reimbursement had already been received by the City Manager himself, and had not been correctly recorded.

On February 1, 2017 The City Manager recommended that the City Council:

*"Direct staff not to pursue reimbursement from Domaine Hospitality for costs associated with the Local Coastal Plan"*¹⁵

The City Council approved this recommendation by a unanimous vote. This decision to abandon attempts to obtain reimbursement for LCP costs was criticized. The explanation given for the decision was that the LCP involved much more than the ATC site and the "optics" of the City accepting money from the developer for this project could create appearance of a conflict of interest.

Funds spent and received

On July 5, 2017, a confidential draft of the Jackson Lewis report was received by the City. A PowerPoint presentation was made at the City Council meeting on July 19, 2017.¹⁶ The full report has not been made public. This report, which cost the City \$31,574.99, was narrowly focused on responding to public criticisms of decisions made by the City and allegations of malfeasance by the City Manager. The conclusion of the report was that there had been no major errors or improprieties on the part of the City administration.

What was not addressed in the Jackson Lewis report were the causes that gave rise to the allegations, such as the sloppiness in the City's systems and procedures, its mishandling of

¹³ See Appendix H

¹⁴ Council Minutes 9/21/16

¹⁵ Council Minutes 2/1/2017

¹⁶ <https://www.cityofpacificgrove.org/sites/default/files/city-council/2017/7-19-2017/city-council-7-19-2017-2a-pacific-grove-presentation-meeting.pdf>

documents and checks, the lack of transparency on the part of City staff, and the cost that resulted from those shortcomings.

By September 30, 2017, when work on Project Bella by Domaine had ceased, City records inspected by the Jury show that the total cost of Project Bella was \$249,815.45. To this cost, should be added the \$31,574.99 for the Jackson Lewis report.

As of December 31, 2017, the total costs billed to Project Bella:^{17 18} and receipts from Domaine were

Date(s)	Purpose	Project related Expenditures	Receipts	Unreimbursed balance
11/9/2015	Application Fee	\$ 11,044.20		\$ 11,044.20
2/17/2016	Staff Labor	\$ 35,000.00		\$ 46,044.20
4/9/2016	Special Election	\$ 79,987.97		\$ 126,032.17
6/8/2016			\$ 50,000.00	\$ 76,032.17
6/10/2016			\$ 79,987.97	\$ (3,955.80)
9/10/2016			\$ 50,000.00	\$ (53,955.80)
9/30/2016	EMC Invoices	\$ 65,488.86		\$ 11,533.06
9/30/2016	Kimley-Horn Invoices	\$ 47,719.42		\$ 59,252.48
9/30/2016	Curtis Williams Invoices	\$ 10,575.00		\$ 69,827.48
	Total	\$ 249,815.45	\$ 179,987.97	

Mr. Harvey stated at the September 21, 2016 City Council meeting that the receipt of the final \$50,000 reimbursement would pay Domain's obligation in full. However, this statement may have failed to take into consideration two invoices from EMC.¹⁹ Of the expenses shown above, two of the EMC invoices which totaled \$20,173.15 were identified by subcontractor EMC as "LCP" work, but were reclassified by the City's Economic Development Director and the Finance Director as Project Bella work. Mr. Harvey's statement may have also failed to consider the \$35,000 in staff time referred to by Mr. Brodeur at the February 17, 2016 City Council meeting and the \$11,044.20 application fee.

The cost of the Jackson Lewis report was an indirect cost of Project Bella. It became necessary in order to answer public allegations of wrong-doing by the City and staff which resulted from the shortcomings in the City's systems, procedures and decision making. When the Jackson Lewis expense is included, the final unreimbursed cost of Project Bella to the city was at least \$101,402.47.

¹⁷ EMC and Kimley-Horn were subcontractors for the City for the preparation of the Environmental Impact Report

¹⁸ Curtis Williams was a Contracted Project Manager for the City

¹⁹ See Appendix I

	Unreimbursed Expenses	\$ 69,827.48
7/15/2017	Jackson Lewis Report	\$ 31,574.99
	Total Unreimbursed Cost of Project Bella	\$ 101,402.47

City Manager

Toward the end of 2015, the former City Manager who had initiated interest in Project Bella announced that he had accepted a new position, and the City began a search for a successor. During this period, Jared Ficker, subcontractor of Domaine, expressed strong support for Ben Harvey, a personal friend of his, to fill the position.²⁰ On January 4, 2016, the City contracted with Mr. Harvey to “shadow” the incumbent city manager for one week before he left the position. Mr. Harvey began work on January 20, 2016 as the Interim City Manager. Concurrently, a professional search firm was engaged to conduct a search for a permanent City Manager. A number of potential candidates were identified and were interviewed for the position. On April 20, 2016, after reviewing the final candidates, the City Council selected Mr. Harvey to fill the position on a permanent basis. It should be noted this was one day after the April 19, 2016 special election approving the zoning change.

Mr. Ficker had a membership in a private air travel organization, Surf Air. In January 2016, he invited Mr. Harvey to participate in his group membership. Mr. Harvey joined Mr. Ficker’s Surf Air membership seven days after accepting the position of Interim City Manager.²¹ The City reimbursed Mr. Harvey for the \$1,000.00 initiation fee. Although it is not part of the written Employment Agreement, Mr. Harvey told the Jury²² the City also agreed to a unique employment benefit that allowed Mr. Harvey to travel to Southern California on Fridays and return on Sundays in order to see his school-age children, who remained in Southern California. They also agreed to reimburse him for his personal travel expenses associated with these trips.

In the Agreement for his employment as the permanent City Manager, the terms included:

“City agrees to pay Employee a housing/transportation reimbursement in the sum not to exceed three thousand (\$3,000) per month”²³

The monthly membership fee for Surf Air was \$1,425.00. Mr. Harvey was able to recoup most of this membership expense from the City under this agreement.

²⁰ Jury interview with T. Frutchey 11/19/17

²¹ Appendix C: email “Welcome To Surf Air!” Cathleen Tobin to Ben Harvey, 1/27/16

²² Jury interview with Ben Harvey 1/16/18

²³ Appendix D: City Manager Employment Agreement, Pg. 4

In 2016, members of the public began looking into Project Bella. By April of 2016, allegations of financial improprieties were made public.²⁴ One of the allegations claims that City Manager Ben Harvey accepted cash and a gift membership in Surf Air.²⁵

Surf Air membership is open to the public. However, Mr. Harvey joined as part of an exclusive and discounted group membership comprised of four people, about which Surf Air administration said in an email:

“Our Memberships, depending on tier, includes access to different locations. Ben was part of a group membership which had a slightly different structure than currently available to new members or what is currently advertised.”²⁶

The owner of the membership was Jared Ficker. As previously mentioned, Mr. Ficker was a friend of Mr. Harvey’s²⁷ and an associate of Domaine Hospitality. Domaine retained Mr. Ficker as a liaison to the California Coastal Commission, publicist, and subsequently Project Director. Mr. Harvey made all of his Surf Air membership payments to Mr. Ficker’s company, Consilience Partners LLC.²⁸

Another member of this group was Ronald Meer, the President and CEO of Domaine. As a result of Mr. Harvey’s participation in this membership, he shared flights with Mr. Ficker and Mr. Meer. While there is nothing illegal about this, the appearance of a conflict of interest was inescapable.

Public suspicion was generated because of the apparent conflict of interest and allegations were made public.

The investigation carried out by the Jackson Lewis law firm, which was hired by the City, found that there was “no evidence of receipt of gifts by City personnel”, and that Ben Harvey had paid his share of the membership with personal funds.²⁹ In support of this, some of Mr. Harvey’s bank statements were provided showing that he had paid Surf Air for the months of:

- January through May 2016
- August 2016
- December 2016 through May of 2017

²⁴ Monterey County Herald 4/6/2017

²⁵ Jackson Lewis PowerPoint: <https://www.cityofpacificgrove.org/sites/default/files/city-council/2017/7-19-2017/city-council-7-19-2017-2a-pacific-grove-presentation-meeting.pdf>

²⁶ Email Surf Air-Grand Jury, April 26, 2018

²⁷ Ben Harvey interviews 9/29/17, 1/16/18

²⁸ Appendix E

²⁹ Ibid: Jackson Lewis PowerPoint

All of the membership payments were reimbursed by the City with the exception of August, 2016.³⁰

As these statements did not cover the entire period of the Project Bella involvement with the City, the Jury asked Mr. Harvey for further documentation. This was provided in the form of additional bank statements and travel reimbursement requests Mr. Harvey had submitted to the City.

The Jury examined travel reimbursements to Mr. Harvey from January 2016 to December 2017. These records show that Mr. Harvey did not pay Surf Air for the months of June, July, September, October and November 2016.³¹ When asked by the Jury why these payments were not made Mr. Harvey responded:

“Surf Air’s flight schedule was dramatically decreased during the specified periods, making it extremely difficult to fly in and out of MRY. Surf Air advised that membership was not going to be collected during those months as a result, but no written record exists.”³²

Surf Air and Mr. Harvey were unable to provide any verification of this statement.

After intermittent payments in 2016, Mr. Harvey resumed his payments in 2017. He cancelled his membership in November 2017, shortly after his first interview with the Jury on September 29, 2017. In a subsequent interview he stated that he cancelled his membership because the expense had become “financially impossible” and that the fees were “two to three times” greater than they had been originally.³³ In fact, Mr. Harvey’s Surf Air membership fees were reduced in May 2016 from \$1,425.00 per month to \$1,375.00, and remained at that rate until he discontinued his membership.

Throughout the period during which Mr. Harvey did **not** pay for membership in Surf Air his Uber receipts indicate that he flew Surf Air to southern California on at least five occasions.

“In recognition that I was largely unable to use their service due to their reduced offerings to MRY, and to allow them the opportunity to keep me as a member while they were trying to make changes, they did not charge me for service for two separate 3 month periods. During these two separate 3 month periods, I remained a member. I did so because I did not wish to quit membership, only having to pay an initiation fee (again) if they were able to fix the situation, and

³⁰ Appendix G: City of Pacific Grove, Request For Reimbursement for Ben Harvey, August 2016. This appendix is for illustrative purposes. Reimbursement requests for other months referred to in this report may be obtained from the City of Pacific Grove.

³¹ Ibid, June, July, September, October, November 2016

³² Appendix F: Email Ben Harvey to Grand Jury 3/27/18 1:54PM

³³ Interview 1/16/18

I signed up again. Occassionally (sic), when it worked, I did use the Surf Air service during these two separate 3 month periods.”³⁴

Investigation by the Jury found that the Surf Air schedule into Monterey was on Friday only. The departures from Monterey were on Sunday only. It is clear that the membership in Surf Air would not have been convenient for Mr. Harvey because he had to depart from Monterey on Fridays.

Examination of Mr. Harvey’s reimbursements shows that in addition to flying on Surf Air, he also flew, and was reimbursed for, personal flights on commercial airlines. He often flew on both Surf Air and commercial airlines within the same month. The Jury’s investigation revealed that commercial travel would have been much less expensive, and a great deal more convenient. Flying commercial airlines from Monterey meant that Mr. Harvey could drive to the Monterey airport, and upon arrival in Southern California take Uber to his home. Flying on Surf Air meant that he used Uber to go from Pacific Grove to San Carlos or Santa Clara, (two of the Surf Air jet centers). These Uber trips cost as much as \$98.00 one way.

As an example, for the period of 1/3/16 through 4/18/16 Mr. Harvey was reimbursed by the City for travel expenses in the amount of \$7,939.64. Had he used only commercial flights, travel for that same period would have totaled approximately \$4,277.00, if he flew every weekend round trip from Monterey to Los Angeles; a savings to the City of \$3,662.64.

Mr. Harvey’s membership in Surf Air was not contrary to City policy. Although he was allowed to fly for several months without paying, it is clear that he did not receive this membership from Domaine. However, in the Jury’s opinion, the decision to join this air service showed a remarkable lack of sensitivity to ethical standards expected of all members of public employment. The code of ethics of the International City Managers Association states:

“Gifts.

Members shall not directly or indirectly solicit, accept or receive any gift if it could reasonably be perceived or inferred that the gift was intended to influence them in the performance of their official duties; or if the gift was intended to serve as a reward for any official action on their part.”

“Personal Relationships.

In any instance where there is a conflict of interest, appearance of a conflict of interest, or personal financial gain of a member by virtue of a relationship with any individual,

³⁴ Appendix F

spouse/partner, group, agency, vendor or other entity, the member shall disclose the relationship to the organization.”³⁵

In the Jury’s opinion, Mr. Harvey’s acceptance of several months of free flights could “reasonably be perceived” as an effort to indirectly influence his treatment of Domaine and its project. Further, in the Jury’s opinion, the appearance of a conflict of interest because of his friendship with Jared Ficker and his shared flights with Ronald Meer would have prevented a prudent man from joining this travel group.

Conclusion

The Jury does not doubt that the City entered into Project Bella with the best of motivations. However, inspired by the prospect of significant revenue for the City, the project was pursued without due diligence.

Ultimately, the only positive result of this project was a zoning change at the ATC site which significantly increased the value of the location. This was at a cost to the city of a minimum of \$101,402.47. A new project for a luxury hotel at the ATC site in the future is still a possibility. If the City is able to identify and incorporate the lessons learned from Project Bella, such a project has every possibility of succeeding.



Proposed Site of Project Bella

³⁵ “ ICMA Code of Ethics with Guidelines “The ICMA Code of Ethics was adopted by the ICMA membership in 1924, and most recently amended by the membership in June 2017.

FACTS

- (1) November 9, 2015: Notice of an incomplete application to develop the American Tin Cannery site at 125 Ocean View Blvd, Pacific Grove was provided by the Community Economic Development Department to Domaine Pacific Grove LLC.
- (2) Domaine had 180 days from November 9, 2015 to submit revised plans or the project would be considered withdrawn.
- (3) Domaine never submitted a complete application which was required for construction of Project Bella.
- (4) The application fee of \$11,044.20 due from Domaine was never received by the City of Pacific Grove.
- (5) At the commencement of the project, the City failed to follow standard procedure by not requiring a substantial deposit from the developer to cover the City's project expenses.
- (6) After the City Manager announced his resignation, Mr. Ficker recommended Mr. Harvey to fill the position of City Manager.
- (7) January 4, 2016: Ben Harvey began work as an independent contractor.
- (8) January 20, 2016: Ben Harvey began work as Interim City Manager.
- (9) January 20, 2016: The City Council approved an agreement for Domaine to reimburse the City for the cost of the special election for a zoning change necessary for Project Bella.
- (10) January 27, 2016: Mr. Harvey joined a membership group in Surf Air's private air travel organization.
- (11) The group membership was owned by Jared Ficker, a friend of Mr. Harvey.
- (12) Mr. Ficker was also an associate of Ronald Meer who was the president and CEO of Domaine and a member of the Surf Air group.
- (13) February 17, 2016: The City Council authorized the interim City Manager to enter into a master reimbursement agreement with Domaine which included reimbursing for City staff time.
- (14) February 17, 2016: In the same City Council meeting the Economic Development Director reported that an estimated \$35,000 of City staff time had been devoted to Project Bella.
- (15) The Jury found no evidence in the City's documents of a tracking system for staff time.

- (16) The jury found no evidence that the City had billed Domaine for staff time devoted to Project Bella.
- (17) April 19, 2016: City of Pacific Grove Special Election approved rezoning the ATC parcel for hotel use.
- (18) April 20, 2016: Ben Harvey hired as permanent City Manager.
- (19) June 4, 2016: The City and Domaine signed a second reimbursement agreement that was not presented to the City Council for approval.
- (20) August 11, 2016: A letter from Jason Letterer, attorney for Domaine, contained Domaine's offer to reimburse the City for a portion of its Local Coastal Plan costs.
- (21) Early August, 2016: A \$50,000 check from David Armanasco was not properly recorded as a payment for Domaine for more than a month.
- (22) February 1, 2017: meeting the City Council voted unanimously to no longer seek additional Reimbursement from Domaine for Local Coastal Plan costs.
- (23) The Jackson Lewis law firm was hired by the City in response to public allegations and criticisms of its decisions and performance.
- (24) In a City Council meeting, the Jackson Lewis investigator gave a PowerPoint presentation with the conclusion that no evidence of malfeasance had been found.
- (25) The City of Pacific Grove now has the zoning change that will be necessary for the development of a hotel at the ATC site.
- (26) The unreimbursed cost of Project Bella to the City has been \$101,402.47.

FINDINGS

- F1. Inspired by the prospect of significant revenue for the City, the project was pursued without due diligence.
- F2. Committing City funds without having done an investigation of the developer, without adequate deposits and without a firm contract for reimbursement, exposed the City to a potential liability of several hundred thousand dollars.
- F3. A lack of transparency contributed to the public criticisms and allegations of financial malfeasance.

- F4. The lack of clearly defined systems and procedures that were consistently followed contributed to public criticism of the City administration.
- F5. The allegation that \$50,000 of City funds had been misappropriated resulted from the City's failure to correctly record a check for that amount that was paid for Project Bella by David Armanasco. This allegation was shown to be incorrect.
- F6. The City lacked adequate procedures to account for employee time by project.
- F7. The City lacked adequate procedures to track documents.
- F8. A lack of appropriate controls on the part of the City administration contributed to unreimbursed costs of more than \$101,402.47 to the City.
- F9. In the Jury's opinion, it appears that Mr. Harvey had an advantage in competing for the position of City Manager.
- F10. In the Jury's opinion, the City Manager, Mr. Harvey, displayed a lack of sensitivity to the appearance of a conflict of interest created by joining Jared Ficker's group membership in Surf Air.
- F11. Mr. Harvey's relationship with members of the Domaine organization resulted in an allegation that he was receiving gifts from Domaine.
- F12. Mr. Harvey did not receive the membership in Surf Air from Domaine, as was alleged in a citizen complaint.
- F13. Mr. Harvey did not pay for Surf Air for two separate three-month periods.
- F14. The cost of Mr. Harvey's flights to Southern California on Surf Air was substantially greater than the average cost would have been for commercial flights.
- F15. The April 19, 2016 re-zoning allows for hotel use at the American Tin Cannery site in the future.

RECOMMENDATIONS

- R1. The City of Pacific Grove should hold "lessons learned" sessions with a facilitator skilled in municipal operations, to critique the Project Bella experience in order to avoid making the same mistakes in future developments.
- R2. The City Council should review and revise Mr. Harvey's employment contract to clearly spell out the limits of his travel allowance.

- R3. There should be a sunset date for the reimbursement for Mr. Harvey's personal travel to Southern California.
- R4. Travel of City of Pacific Grove employees should be reimbursed at the lowest practical cost.
- R5. The City of Pacific Grove should develop procedures that would enable document tracking.
- R6. The City of Pacific Grove should develop procedures that would track employee time by project.
- R7. The City of Pacific Grove should develop a comprehensive policies and procedures manual that clearly describes the duties of all employees.
- R8. The City of Pacific Grove should develop a policy to improve the transparency of its communication with its citizens.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Monterey County Civil Grand Jury requests a response to Findings and Recommendations as follows:

- Pacific Grove City Council - (F1 thru F15, R1-R8)

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

INVITED RESPONSES

Pacific Grove City Manager Ben Harvey - (F1 thru F15, R1-R8)

INDEX TO APPENDICES

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C – Email, Welcome to Surf Air 1/27/2016

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F – Email Ben Harvey to 2017-18 Monterey County Civil Grand Jury

G – Request for Reimbursement

- G-1 City Of Pacific Grove Request for Reimbursement from Ben Harvey dated 9/14/16
- G-2 Uber receipt \$80.32: travel by Ben Harvey on 9/1/16 Monterey to Santa Clara
- G-3 Travelocity receipt \$221.10: travel by Ben Harvey on 9/1/16 Pacific Grove to Los Angeles
- G-4 Alaska Airline receipt \$251.10: travel by Ben Harvey on 9/2/16 Los Angeles to Monterey
- G-5 Uber receipt \$44.57: travel by Ben Harvey on 9/2/16 Long Beach to Los Angeles
- G-6 Uber receipt \$21.71: travel by Ben Harvey on 9/4/16 Long Beach to Hawthorne
- G-7 Uber receipt \$28.74: travel by Ben Harvey on 9/8/16 Long Beach to Hawthorne
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- G-9 Alaska Airline receipt \$221.10: travel by Ben Harvey on 9/12/16 Los Angeles to Monterey
- G-10 Uber receipt \$86.45: travel by Ben Harvey on 9/12/16 Long Beach to Los Angeles

H – Letter LG Attorneys to City of Pacific Grove

I – EMC Invoice

APPENDIX A



MEDIA ALERT

FOR IMMEDIATE RELEASE

PR CONTACT: David Armanasco
Armanasco Public Relations, Inc.
Tel: 831.372.2259 or Email: darmanasco@armanasco.com

LUXURY HOTEL TO REPLACE AMERICAN TIN CANNERY IN PACIFIC GROVE
Press Conference will introduce the LEED Platinum "Project Bella"

PACIFIC GROVE, Calif.-August 24, 2015: Domaine Hospitality Partners, LLC and representatives from the City of Pacific Grove, Monterey Bay Aquarium, and Foursome Development Co. will announce the launch of Project Bella at a press conference Wednesday. Project Bella emphasizes sustainability and support of the Monterey Bay Aquarium, Stanford's Hopkins Marine Station and the Monterey Bay National Marine Sanctuary.

WHO: Ronald Meer, CEO, Domaine Hospitality Partners, LLC
Julie Packard, Executive Director, Monterey Bay Aquarium
Ted Balestreri, Managing Partner, Foursome Development Co.
Mayor Bill Kampe, City of Pacific Grove

WHAT: **Project Bella**
Project Bella, developed by Domaine Hospitality, is a luxury LEED Platinum hotel to be located across the street from the Monterey Bay Aquarium and Stanford's Hopkins Marine Station. Now in planning with world renowned architect Mark Hornberger, Project Bella aims to be the leading luxury hotel in United States.

WHERE: **The American Tin Cannery**, 125 Ocean View Boulevard, Suite 308,
(2nd floor) Pacific Grove, CA

WHEN: Wednesday, August 26, 11:00 AM

MEDIA CONTACT: David Armanasco
Armanasco Public Relations, Inc.
Tel: 831.372.2259 or Email: darmanasco@armanasco.com

About Project Bella

The mission of Domaine Hospitality's Project Bella is to acknowledge and support the sustainability programs and initiatives of the Monterey Bay National Marine Sanctuary by providing unparalleled hospitality services to visitors to the Monterey Peninsula and to promote environmental awareness through carefully curated partnerships of business, academia, and the public. For more information, visit www.domainehotels.com.

APPENDIX B

Yes, I'll be around tomorrow and I have no idea how this happened. ---

Sent from my iPhone

On May 26, 2016, at 3:42 PM, Jason Retterer <Jason@lg-attorneys.com> wrote:

Heidi:

Someone at the City provided Ron with a City-signed Reimbursement Agreement (attached) that is not the final Reimbursement Agreement that we negotiated in January. Attached is a PDF of the Agreement. Not sure where this version came from, but in addition to changing the name of the Domaine entity (which is incorrect), it includes additional changes to the recitals and many other sections of the Agreement that I have never reviewed.

Attached is Word document, which was the last version of the Reimbursement Agreement, dated 1/11/16 that I emailed you with a copy to Frutchev and Brodeur at 6:05 on January 11. I thought this version was the final version.

Do you know what happened? If the City wants Domain to sign the attached PDF version, I would like to see a redline comparison of this document with the 1/11/16 version. If you email me the word file of the attached PDF, I'm happy to run the comparison.

Thanks.

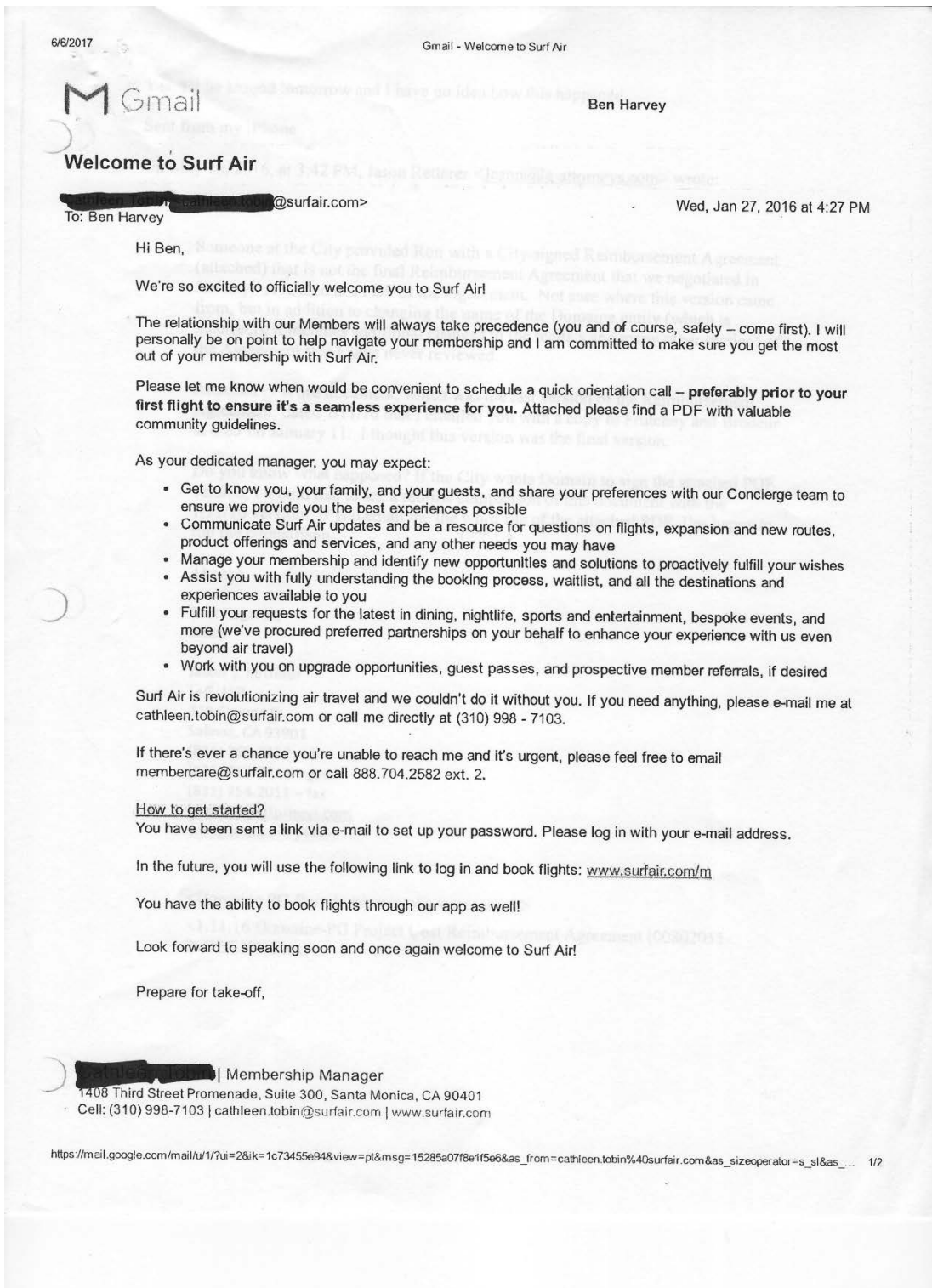
Best Regards,
Jason

Jason S. Retterer
L+G, LLP
318 Cayuga St.
Salinas, CA 93901
(831) 269-7127 – dir.
(831) 754-2444 – gen.
(831) 754-2011 – fax
jason@lg-attorneys.com
www.lg-attorneys.com

<Domaine PG Reimbursement Agreement.pdf>

<1.11.16 Domaine-PG Project Cost Reimbursement Agreement (00802055-2xBBE29).docx>

APPENDIX C



APPENDIX D

CITY MANAGER EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PACIFIC GROVE AND BENJAMIN HARVEY

This Employment Agreement (Agreement) replaces any prior Employment Agreement between the City of Pacific Grove and Benjamin Harvey (City Manager or Employee). This Agreement is entered into on April 20, 2016.

FINDINGS

1. City desires to employ Benjamin Harvey as City Manager of the City of Pacific Grove, as provided for in the Pacific Grove Charter and Municipal Code.
2. The City Council (Council), desires to provide certain benefits, to establish certain terms and conditions of employment, and to set working conditions of said Employee.
3. The City desires to (1) secure and retain the services of Employee, and to provide inducement for him to remain in such employment; (2) to make possible full work productivity and independence by assuring Employee's morale and peace of mind with respect to future security; and (3) to provide a just means for terminating Employee's services at such time that City may desire to terminate his employment.
4. The City Council enters into this Agreement to set the terms and conditions of employment of Benjamin Harvey as City Manager. A prior interim employment agreement was entered into between the City of Pacific Grove and Employee. This Agreement supersedes that document.
5. The functions, duties and prerogatives of the City Manager are specified in Article 19 of the Pacific Grove City Charter and in Chapter 2.06 of the Pacific Grove Municipal Code. The provisions of the City Charter and Chapter 2.06 of the Municipal Code control should any conflict exist pertaining to this Agreement.
6. Benjamin Harvey intends and is required by this Agreement to well and faithfully perform the duties of City Manager of the City of Pacific Grove in accord with the Pacific Grove City Charter, the Pacific Grove Municipal Code, and Council policy, and to perform other legally permissible and proper duties and functions as the Council shall from time to time assign.

AGREEMENT

Section 1. Effective Date This Agreement shall be take full force and effect as of April 20, 2016.

Section 2. Modification of Earlier Agreement This Agreement shall supersede and replace any earlier Agreement between the City and Employee, the provisions of which shall not apply after the effective date of this Agreement.

Section 7. Benefits

City shall provide benefits to Employee as specified for City management employees by the Municipal Code, ordinance, resolution, or Memo of Understanding (MOU) except as otherwise provided below.

- A. Employee shall accrue PTO at the rate of 10 hours per month (one hundred twenty (120) hours annually). Upon employment, Employee's initial PTO balance, however, shall begin at one hundred (100) hours. A PTO accrual cap of four hundred and eighty (480) hours shall apply, and the Employee shall not accrue PTO when the Employee's unused accrual balance reaches that limit. Any accrued but unused balance at or below the accrual cap shall be paid upon separation or retirement.
- B. All tenure related benefits shall be calculated using a January 1, 2016 date of hire.
- C. City shall pay to Employee an automobile allowance of five hundred dollars (\$500) per month. This automobile allowance is intended to reimburse Employee for local travel, defined as travel within Monterey County or within fifty (50) miles of the City. All travel outside of local travel shall be paid at the same rate as to other City employees.
- D. City agrees to pay Employee a housing/transportation reimbursement in the sum not to exceed three thousand dollars (\$3,000) per month.
- E. Employee shall observe the following six holidays: Memorial Day, Labor Day, Thanksgiving, Day After Thanksgiving, Christmas Day, New Year's Day. These six holidays shall be taken in the same manner as the City management employees. In addition, on July 1 each year Employee shall accrue five (5) floating personal days off to be used at his option. Any floating personal day off that is not used on or before June 30 shall be forfeited.
- F. Employee will be a PEPRA employee and shall receive and make contributions to CalPERS retirement as specified for PEPRA non-safety City Management employees and in compliance with PEPRA requirements.
- G. City shall pay Employee a one-time relocation benefit of five thousand (\$5,000) dollars to defray a portion of Employee's expenses. Should Employee voluntarily resign within twenty-four months of his initial date of hire, he shall rebate one-half of this sum to the City.
- H. City shall provide Employee with the following benefits:
 - i. Health, dental and vision benefits shall be provided in the same manner as the City provides for non-safety management employees. The City will pay one thousand dollars (\$1,000) per month for this benefit.
 - ii. City shall provide term life insurance for the benefit of Employee, with a payable death benefit of fifty thousand (\$50,000).

[REDACTED]@calstrat.com>

5/5/2017 12:37 PM

Fw: Surf Air

To: rmeer@domainehotels.com <rmeer@domainehotels.com>

Hi Ron,

I realize I just sent an incorrect invoice for Surf Air. I was wondering if the below email Jared proposed for the change in price for you was suppose to go into effect in April? If you happen to know, then I will send a new invoice. I emailed Jared and am awaiting a response.

Thank you!

[REDACTED]
~Assistant to Jared Ficker~
[REDACTED]@calstrat.com

From: Jared Ficker
Sent: Monday, April 3, 2017 10:33 PM
To: Ben Harvey; [REDACTED], [REDACTED]
Cc: Ronald L. Meer; [REDACTED]
Subject: Re: Surf Air

Thanks Ben!

Jared Ficker
California Strategies
Cell: 916-997-2082

From: Ben Harvey <onebenharvey@gmail.com>
Sent: Monday, April 3, 2017 11:32 PM
Subject: Re: Surf Air
To: [REDACTED], [REDACTED], Jared Ficker <jficker@calstrat.com>, [REDACTED]
Cc: [REDACTED], Ronald L. Meer <rmeer@domainepg.com>

Jared - thank you for your email, and thank you for your efforts to keep this group whole. Welcome aboard, M! Jared, I am current on my account, with April payment scheduled to get to M by 4/6. I rec'd the new group text from you as well. If there's anything else, please let me know.

Thanks again!

Ben Harvey
213.364.2699 213.364.2699 onebenharvey@gmail.com

On Apr 3, 2017, at 10:21 PM, Jared Ficker <jficker@calstrat.com> wrote:

Guys,

As mentioned, I was able to get M to come in for Ken's departure. M will also pay a higher amount than evenly splitting as he will likely be using it the most and needs some preference and has a couple employees too. I continue to use the corporate membership very little as I still have a good grandfathered personal membership, but occasionally need flights for employees/family.

Here is the proposed breakdown on Surf Air Costs

Corporate account (7 slots) \$7,125 (beauty of this grandfathered account is lower cost and we can add more people than slots at \$1k initiation; new corporate accounts are limited to only have 1 slot per person)

Jared Personal account (4 slots + free guests (against the 4 slots) if booked a week in advance) \$1,650

Proposed division of costs:

[REDACTED]	\$3000
Jared Employees/Family	\$1375
Ron Meer	\$1375
Ben Harvey	\$1375
Jared Personal	\$1650

So, this is a significant reduction for Ron to more adequately reflect his use and M is picking up that slack with K's departure as well. These typically hit my credit card a few days before the end of the month, so I would appreciate receiving payments before the end of each month for the upcoming month. M will invoice ahead of time.

Ron and Ben, if you are not already current, please take care of payments right away. M and I can work out later as we capitalize [REDACTED]

We should still send a group txt when booking as courtesy so we can work out any potential conflicts or address needs someone might have. I will setup up a new group txt adding M and deleting K. I am also adding Kevin from my team to this txt as well.

/Jared

CC: [REDACTED]
TO: res@cityofpacificgrove.org
FROM: benharvey@cityofpacificgrove.org

Thu May 23 3:40 PM

[Quoted text hidden]

3. Reason you did not pay Surf Air during the following months:

5/16, 6/16, 7/16, 9/16, 10/16, 11/16.

And do you have confirmation from Surf Air for the reason no payments were required during those months.

Surf Air's flight schedule was dramatically decreased during the specified time periods, making it extremely difficult to fly in and out of MRY. Surf Air advised that membership was not going to be collected during those months as a result, but no written record exists.

4. Since we are wrapping up we will need need this information no later than 3/30/18.

Considering my response to #1, this request is not possible.

Thank you.

[Quoted text hidden]

--

Ben Harvey
City Manager
City of Pacific Grove
bharvey@cityofpacificgrove.org

Ben Harvey <citymanager@cityofpacificgrove.org>

Wed, Mar 28, 2018 at 10:26 AM

To: [REDACTED]

Cc: Mary Lou McKenney, [REDACTED]

[REDACTED]

My responses to your questions are below are in red font:

x x x x

Correction I will pick up the reimbursement receipts today 3/28 @ 12:15pm.

OK. We are normally closed between 12:00 and 1:00 PM for lunch, but I will see to it that you are able to access our office to pick up the requested material.

Regarding the need for council approval to release the contract between the City and Jackson Lewis it is my understanding this request does not need Council approval.

You are incorrect. The City Council has to authorize releasing the contract.

Regarding your Surf Air membership please confirm you did not use Surf Air services during the months payments were not debited from your bank account (the dates were outlined in my the original email to you on 3/26).

Surf Air reduced their flight offerings dramatically from the time that I signed up for the service, severely impacting my ability to get to MRY. I complained to them about this multiple times (as did many other Surf Air members), as their flight reductions greatly diminished my ability to avail myself of their service. They agreed to try and remedy the impact by hiring additional pilots and adding new routes. In recognition that I was largely unable to use their service due to their reduced offerings to MRY, and to allow them the opportunity to keep me as a member while they were trying to make changes, they did not charge me for service for two separate 3 month periods. During these two separate 3 month periods, I remained a member. I did so because I did not wish to quit membership, only having to pay an initiation fee (again) if they were able to fix the situation, and I signed up again. Occassionally, when it worked, I did use the Surf Air service during these two separate 3 month periods.

<https://mail.google.com/mail/u/2/?ui=2&ik=375200b4af&jsver=37e3C...lml=162bb54974e7c668&siml=162bbb153bde379e&siml=162bbdaec77160f5>

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APPENDIX G

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- G-1 City Of Pacific Grove Request for Reimbursement from Ben Harvey dated
9/14/16
- G-2 Uber receipt \$80.32: travel by Ben Harvey on 9/1/16 Monterey to Santa Clara
- G-3 Travelocity receipt \$221.10: travel by Ben Harvey on 9/1/16 Pacific Grove to Los
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Monterey
- G-10 Uber receipt \$86.45: travel by Ben Harvey on 9/12/16 Long Beach to Los
Angeles



CITY OF PACIFIC GROVE
300 Forest Avenue
Pacific Grove, CA 93950
(831) 648-3100 phone (831) 375-9863 fax

Request for Reimbursement

Request Date: 9/14/16

Payable to: Ben Harvey

Address: 224 16th Street
Pacific Grove, CA 93950

Department: City Manager

Reason for Expense: September travel reimbursement.

Travel	\$1,040.09	(01-121-5215)
--------	------------	---------------

Total Amount: \$1,040.09

7708
PAID SEP 23 2016

Approved:

P.A. Maitland

Date:

9-19-16

9/13/2016

City of Pacific Grove Mail - Your Thursday morning trip with Uber



City Manager <citymanager@cityofpacificgrove.org>

Your Thursday morning trip with Uber

Uber Receipts <uber.us@uber.com>
To: bharvey@cityofpacificgrove.org

Thu, Sep 1, 2016 at 9:28 AM



\$80.32

Thanks for choosing Uber, Ben

September 1, 2016 | uberX

● 07:54am | 310-312 Martin Ave, Santa Clara, CA

● 09:27am | 613 Lighthouse Ave, Pacific Grove, CA

You rode with George

74.61 01:32:20 uberX

https://mail.google.com/mail/u/0/?ui=2&ik=0e771f5cb9&view=pt&as_from=uber&as_sizeoperator=s_sl&as_sizeunit=s_smb&as_subset=all&as_within=1d&sea... 1/3



Flight to Los Angeles

Sep 1, 2016 - Sep 1, 2016 | Itinerary # 7206703341507

Important Information

- Remember to bring your itinerary and government-issued photo ID for airport check-in and security.

Monterey (MRY) → Los Angeles (LAX)

Sep 1, 2016 - Sep 1, 2016, 1 one way ticket

COMPLETED

Alaska Airlines

TSRQDS

We hope you had a great trip. Thank you for choosing Travelocity for your travel reservations.

Traveler Information

Benjamin Jennings
Harvey
Adult

No frequent flyer
details provided

Ticket #
0277857419541

* Seat assignments, special meals, frequent flyer point awards and special assistance requests should be confirmed directly with the airline.

Sep 1, 2016 - Departure Nonstop

Total travel time: 1 h 13 m

Monterey Los Angeles

1 h 13 m

MRY 5:55pm

LAX 7:08pm

267 mi



Terminal 6

Alaska Airlines 2603 Operated by HORIZON AIR AS
ALASKAHORIZON

Economy / Coach (B) | Confirm seats with the airline *

Airline Rules & Regulations

- We understand that sometimes plans change. We do not charge a cancel or change fee. When the airline charges such fees in accordance with its own policies, the cost will be passed on to you.
- Tickets are nonrefundable, nontransferable and name changes are not allowed.
- Please read the complete penalty rules for changes and cancellations applicable to this fare.
- Please read important information regarding airline liability limitations.

Price Summary

Traveler 1: Adult	\$221.10
Flight	\$192.56
Taxes & Fees	\$28.54

Total: **\$221.10**

All prices quoted in US dollars.

Additional Flight Services

- The airline may charge additional fees for checked baggage or other optional services.

9/13/2016

City of Pacific Grove Mail - Your Friday morning trip with Uber



City Manager <citymanager@cityofpacificgrove.org>

Your Friday morning trip with Uber

Uber Receipts <uber.us@uber.com>
To: bharvey@cityofpacificgrove.org

Fri, Sep 2, 2016 at 8:33 AM

SEPTEMBER 2, 2016

\$44.57

Thanks for choosing Uber, Ben



07:37am
615-619 Temple Ave, Long Beach, CA

08:31am
Terminal 6, 600 World Way, Los Angeles, CA

CAR	MILES	TRIP TIME
uberX	23.40	00:54:07

FARE BREAKDOWN

Trip fare	44.57
Subtotal	\$44.57
CHARGED	
Personal **** 7111	\$44.57



You rode with Stephanie
Transportation Network Company: Rastier-CA, LLC.

RATE YOUR DRIVER

9/13/2016

Gmail - Your Thursday morning trip with Uber



Your Thursday morning trip with Uber

Uber Receipts <uber.us@uber.com>
To: onebenharvey@gmail.com

\$21.71



	05:30am	604 Temple Ave, Long Beach, CA
	06:03am	12101 Crenshaw Blvd, Hawthorne, CA
CAR	MILES	TRIP TIME
uberX	18.92	00:32:33

Trip fee

Subtotal

CHARGED

Personal **** 1038

\$21.71



You rode with Andre

Transportation Network Company: Rasier-CA, LLC.

RATE YOUR DRIVER

https://mail.google.com/mail/u/1/?ui=2&ik=1c73455e94&view=pt&as_from=uber&as_sizeoperator=s_sl&as_sizeunit=s_smb&as_subset=all&as_within=1d&se... 1/2

9/13/2016

City of Pacific Grove Mail - Your Thursday afternoon trip with Uber



City Manager <citymanager@cityofpacificgrove.org>

Your Thursday afternoon trip with Uber

Uber Receipts <uber.us@uber.com>
To: bharvey@cityofpacificgrove.org

Thu, Sep 8, 2016 at 4:22 PM

SEPTEMBER 8, 2016

\$28.74

Thanks for choosing Uber, Ben



FARE BREAKDOWN

Trip fare	28.74
Subtotal	\$28.74
CHARGED	
Personal **** 7111	\$28.74

03:33pm
3101 Jack Northrop Ave,
Hawthorne, CA

04:21pm
615 Temple Ave, Long Beach,
CA

CAR	MILES	TRIP TIME
uberX	23.44	00:47:52



You rode with YAMEESE
Transportation Network Company: Rasier-CA, LLC.

RATE YOUR DRIVER

https://mail.google.com/mail/u/0/?ui=2&ik=0ef71f5cb9&view=pt&as_from=uber&as_sizeoperator=s_sl&as_sizeunit=s_smb&as_subset=all&as_within=1d&sea... 1/2

Ste 105
Lakewood, California 90712-4102



Date: 09/07/2010 @ 01:43 PM
Customer: BENJAMIN J. HARVEY
KTN: UNASSIGNED
UE ID: UZZY1Q2F64

Services

TSA FEE ✓ @ - Enroll \$25.00

SubTotal \$85.00

Total: \$85.00

Amount
Credit Card ending in (1038) \$85.00

Amount Paid: \$85.00

Credit Card Authorization

By signing, I authorize MorphoTrust US
or their agents to charge my credit card
for service(s) performed and/or products
purchased. I agree that I will pay for this
purchase in accordance with the issuer's
bank cardholder agreement.

A handwritten signature in black ink, appearing to read 'Benito'.

Signature

IMPORTANT NOTE:

Service status is available at:
<http://universalenroll.dhs.gov>

If you have not been contacted by TSA
within 30 days after enrollment, please
contact Customer Support by calling:
1-855-DHS-UES1
(1-855-347-8371)

If you do not contact customer support,
you may be required to re-enroll and
pay the enrollment fee again. Please
note that no refunds are given.

9/13/2016

City of Pacific Grove Mail - Confirmation Letter - CPUUTW 09/02/16 - from Alaska Airlines



City Manager <citymanager@cityofpacificgrove.org>

Confirmation Letter - CPUUTW 09/02/16 - from Alaska Airlines

1 message

Alaska Airlines <Alaska.IT@alaskaair.com>
Reply-To: Alaska Airlines <Alaska.ConfirmationLetter@alaskaair.com>
To: BHARVEY@cityofpacificgrove.org

Thu, Sep 1, 2016 at 9:15 AM

Confirmation code: CPUUTW

You're all set. Thank you for booking with Alaska and we look forward to seeing you on board.

Need to change your flight? Visit us in advance, online at https://www.alaskaair.com/booking/reservation-lookup?eml=WHA_TR_CL_MANAGERRESERVATION||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional or through reservations at http://www.alaskaair.com/content/about-us/online-help.aspx?eml=WHA_TR_CL_RESERVATIONS||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

Travelers

Benjamin Harvey

Flight information

Flight: Alaska 2604
Operated By Horizon Air as Alaska Airlines. Check in with Alaska Airlines.
Equipment: Bombardier Q400
Departs: Los Angeles, CA (LAX) on Fri, Sep 2 at 9:45 am
Arrives: Monterey (MRY) on Fri, Sep 2 at 11:00 am
Class: S(Coach)
Seats: 13D

Prohibited hazardous materials

The Federal Government has specific restrictions about hazardous materials in carry-on and checked baggage. Failure to declare hazardous materials may result in civil and criminal penalties, for more information, visit: http://www.faa.gov/about/initiatives/hazmat_safety

Summary of airfare charges

Traveler: Benjamin Harvey
Enter your mileage plan number at https://www.alaskaair.com/booking/reservation-lookup?LNAME=HARVEY&RECLOC=CPUUTW&Source=ConfirmationLetter&eml=WHA_TR_CL_ENTERMILEAGEPLANNUMBER||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional
Ticket: 0272122425061

<https://mail.google.com/mail/u/0/?ui=2&ik=0ef71f5cb9&view=pt&q=alaska%20airlines&q=alaska%20airlines&qs=true&search=query&th=156e688b1434a677&siml=156e688b1434a677> 1/4

City of Pacific Grove Mail - Confirmation Letter - CPUUTW 09/02/16 - from Alaska Airlines

Taxes and Other Fees: \$30.63

Total fare: USD \$251.10

LNAME=HARVEY&RECLOC=CPUUTW&Action=PriceDetails&Source=ConfirmationLetter&eml=WHA_TR_CL_VIEWTAX||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

Nonrefundable fare of \$251.10 was charged to the

Trip protection by allianz global assistance

Check in information

Web check-In: <https://webselfservice.alaskaair.com/checkinweb/Default.aspx>

For more information about minimum check-in times, required identification, international travel, and traveling with minors, please visit <http://www.alaskaair.com/content/travel-info.aspx>.

View full details about your flight reservation and fare. You can choose seats, make special service requests, and make changes online.

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When you create a flight status alert, we notify you in the event of delays, early arrivals, and cancellations of Alaska Airlines flights (email or text message).

Create Alert: <http://www.alaskaair.com/dayofflight/alerts.aspx>

Alaska Airlines provides a meet and assist service for travelers who need assistance through the airport. Request this service online at <https://www.alaskaair.com/booking/reservation-lookup>, or over the phone.

INFLIGHT SERVICE

<https://mail.google.com/mail/u/0/?ui=2&ik=0ef71f5cb9&view=pt&q=alaska%20airlines&q=alaska%20airlines&qs=true&search=query&th=156e688b1434a677&siml=156e688b1434a677> 2/4

9/13/2016

City of Pacific Grove Mail - Confirmation Letter - CPUUTW 09/02/16 - from Alaska Airlines

enjoyment. We've also equipped almost all of our fleet with InFlight WiFi so you can surf the web or stay productive inflight. For more info, please see our on board guide at http://www.alaskaair.com/content/travel-info/on-board/onboard-guide.aspx?eml=WHA_TR_CL_ONBOARD_GUIDE||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

Baggage

Carry-On baggage: On Alaska Airlines flights, each traveler is limited to one carry-on bag that measures up to 10 x 17 x 24 inches, plus one personal item. See our carry-on baggage https://www.alaskaair.com/content/travel-info/policies/baggage-carryon.aspx?eml=WHA_TR_CL_CARRYON_BAG||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional page for more information.

Checked baggage: Alaska Airlines rules and fees apply for this itinerary. The first and second checked bag fees are \$25 each. See the checked baggage https://www.alaskaair.com/content/travel-info/policies/baggage-checked.aspx?eml=WHA_TR_CL_CHECKED_BAG_POLICY||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional data-track-link=%7B%22section%22%3A%22rulesandrestrictions%22%2C%22linkName%22%3A%22checkedbaggage%22%2C%22isUnobtrusiveSameDomain%22%3A%22true%22%7D page for details and exceptions.

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Get your bags in 20 minutes guaranteed. For more information, please visit https://www.alaskaair.com/content/travel-info/baggage/baggage-claim/20-minute-guarantee.aspx?eml=WHA_TR_CL_20_MINUTE_GUARANTEE||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

For your security

Do you have a redress number? If so, and you did not provide it when you made your reservation, please visit <https://www.alaskaair.com/booking/reservation-lookup> or call reservations. To learn more about redress numbers go to <http://www.dhs.gov/trip>.

Destinations

Get an informative e-tour of the best restaurants, shopping, and attractions in major U.S. cities! Please visit <http://www.alaskaair.com/www2/destinations/Destinations.aspx>.

Contact us

Share your thoughts with us: <http://www.alaskaair.com/content/about-us/contact-us/contact-info.aspx>

Sign up for the insider

Our weekly email newsletter features exclusive fare sales, Discount Codes and Web specials tailored to your preferences, as well as Alaska Airlines Mileage Plan offers and news. Sign up at <https://www.alaskaair.com/www2/ssl/myalaskaair/myalaskaair.aspx?CurrentForm=UCNewsletterSignupStart>.

Your rights

Please review important information about your consumer rights and our limitations of liability at <http://www.alaskaair.com/content/legal/consumer-notices.aspx>.

You may also wish to review the contract of carriage applicable to your trip: https://www.alaskaair.com/content/legal/contract-of-carriage.aspx?eml=WHA_TR_CL_CONTRACT_OF_CARRIAGE||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

Please do not respond to this message. Contact Alaska Airlines at <http://www.alaskaair.com/content/legal/privacy-https://mail.google.com/mail/u/0/?ui=2&ik=0ef71f5cb9&view=pt&q=alaska%20airlines&q=156e688b1434a677&siml=156e688b1434a677> 3/4

9/13/2016

City of Pacific Grove Mail - Confirmation Letter - CPUUTW 09/02/16 - from Alaska Airlines

policy.aspx?lid=footer:privacyPolicy#contact&eml=WHA_TR_CL_CONTACTUS||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

If you have an account with us and wish to unsubscribe from marketing email, visit the manage email page at

https://www.alaskaair.com/www2/ssl/myalaskaair/myalaskaair.aspx?CurrentForm=UCSignInStart&eml=eml=WHA_TR_CL_MANAGE_EMAIL||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

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http://www.alaskaair.com/content/legal/privacy-policy.aspx?lid=footer:privacyPolicy&eml=WHA_TR_CL_PRIVACY_POLICY||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

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Read about our privacy policy at <http://www.alaskaair.com/content/legal/privacy-policy.aspx>.

This email was sent to bharvey@cityofpacificgrove.org.

Reference Number PL60213393. Requested at 09/01/2016 09:03 AM.

9/13/2016

Gmail - Confirmation Letter - CZXKUJ 09/12/16 - from Alaska Airlines



Ben Harvey <onebenharvey@gmail.com>

Confirmation Letter - CZXKUJ 09/12/16 - from Alaska Airlines

Alaska Airlines <Alaska.IT@alaskaair.com>
Reply-To: Alaska Airlines <Alaska.ConfirmationLetter@alaskaair.com>
To: ONEBENHARVEY@gmail.com

Tue, Sep 6, 2016 at 9:46 PM

If you have trouble viewing this message, click here to request a plain text-only version of this email.



Confirmation code:

CZXKUJ

You're all set. Thank you for booking with Alaska and we look forward to seeing you on board.
Need to change your flight? Visit us, online or through reservations.

Flight	Departs	Arrives	Class	Traveler(s)	Seat(s)
Alaska 2604 Bombardier Q400	Los Angeles, CA (LAX) Mon, Sep 12 9:45 am	Monterey (MRY) Mon, Sep 12 11:00 am	B (Coach)	Benjamin Harvey	16E

Operated By Horizon Air as Alaska Airlines. Check in with Alaska Airlines.

Additional information

Prohibited hazardous materials
The Federal Government has specific restrictions about hazardous materials in carry-on and checked baggage. Failure to declare hazardous materials may result in civil and criminal penalties. For more information, visit: the FAA website.

Hotels and cars

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Summary of airfare charges

Benjamin Harvey
MP# Enter Mileage Program
Ticket 0272122793133
Base Fare and Surcharges
Taxes and Other Fees
per person total:

\$192.56
\$28.54
\$221.10

Total charges for air travel
View all taxes, fees and charges

USD \$221.10

Need a ride?
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Get the Visa Signature® card

Apply now for the Alaska Airlines Visa Signature® card and earn 30,000 bonus miles after qualifying purchases.

<https://mail.google.com/mail/u/1/?ui=2&ik=1c73455e94&view=pt&q=alaska%20airlines&qs=true&search=query&msg=15702857e8094e2&siml=15702857e80...> 1/3

9/13/2016

City of Pacific Grove Mail - Your Monday morning trip with Uber



City Manager <citymanager@cityofpacificgrove.org>

Your Monday morning trip with Uber

Uber Receipts <uber.us@uber.com>
To: bharvey@cityofpacificgrove.org

Mon, Sep 12, 2016 at 8:46 AM

SEPTEMBER 12, 2016

\$86.45

Thanks for choosing Uber, Ben

		
07:35am 615 Temple Ave, Long Beach, CA		
08:45am 687-699 World Way, Los Angeles, CA		
CAR uberX	MILES 28.18	TRIP TIME 01:09:16

FARE BREAKDOWN

Trip fare 86.45

Subtotal \$86.45

CHARGED

Personal **** 7111 **\$86.45**



You rode with SAUL

Transportation Network Company: Raiser-CA, LLC.

RATE YOUR DRIVER



Need help?

Tap Help in your app to [contact us](#) with questions about your trip.

Leave something behind? [Track it down](#).



Get your first Uber ride free (up to \$20)

Share code: [benh2068](#)

Read about our zero tolerance policy. Email support@uber.com to report a Zero Tolerance complaint.

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APPENDIX H



L+G LLP Attorneys at Law

August 11, 2016

Sent via Email

Mr. Ben Harvey
City Manager
City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950

Re: Domaine Reimbursement Obligation

Dear Mr. Harvey:

On behalf of Domaine Pacific Grove LLC ("Domaine"), our office negotiated three reimbursement agreements that set forth Domaine's reimbursement obligation to the City relating to the processing of entitlements for Project Bella and the Local Coastal Program. Based on comments at last week's City Council meeting and the various negative media reports that claim that Domaine has not met its reimbursement obligation to the City, Domaine would like to meet with you when you return from vacation to discuss the following matters:

1. Correcting the quarterly deposit dates that were set forth in the Reimbursement Agreement that Domaine and the City signed on June 14, 2016. As you may know, Domaine made an initial \$50,000 deposit in early June before the Agreement was even signed. Domaine also agreed to make five additional \$50,000 deposits to cover consultant costs. However, the due dates for these deposits pre-date the Agreement and were included in a version of the Agreement that was negotiated with the City Attorney in January 2016. Unfortunately, these dates were inadvertently not changed when the Agreement was finalized and signed in June 2016. I informed Ms. Quinn the day the Agreement was signed that the dates were incorrect and needed to change so they logically post-date the Agreement. We understand that the City is now trying to enforce these deposit due dates even though the City knows that these dates are clearly a mistake and need to be corrected.
2. Clarifying Domaine's reimbursement obligation for the City's LCP costs. Last January, Domaine and the City negotiated an LCP Reimbursement Agreement that has not been signed by Domaine or the City. Accordingly, Domaine currently has no LCP cost reimbursement obligation despite what the City Staff represented to the Council in its staff report relating to

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 - **PASO ROBLES** 745 Pine Street / Paso Robles, CA 93446 / TEL 805.226.0626
 - **KING CITY** 218 Bassett Street / King City, CA 93930 / TEL 831.385.0900
- TOLL FREE 888.757.2444 / www.LG-Attorneys.com

Jeffery R. Gilles, *Partner*
Aaron Johnson, *Partner*
Jason Retterer, *Partner*
Robert E. Rosenthal, *Partner*
Paul A. Rovella, *Partner*
Bradley W. Sullivan, *Partner*
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Sergio H. Parra
Ronald A. Parravano
Stephen L. Pessagno
Matthew R. Rankin
James W. Sullivan
David W. Balch, *Of Counsel*
Doug K. Dusenbury, *Of Counsel*

Ben Harvey
August 11, 2016
Page 2

Amendment No. 5 to its LCP Contract that was presented to the Council at its May 18, 2016 meeting. Nonetheless, Domaine will commit to reimbursing the City for a portion of LCP costs pursuant to the terms of the LCP Reimbursement Agreement that was negotiated with the City last January.

3. Correcting the outstanding consultant invoices and reviewing the process set forth in the Reimbursement Agreement relating to Domaine's review and approval of future consultant invoices prior to drawdown of Domaine's deposits.

In the meantime and pursuant to your discussion with Mr. Meer, Bruce Haniford, who is handling all of the contracts for Domaine, talked to Curtis Williams today regarding the invoices and methodology of payment. In addition, yesterday, Domaine paid the City \$79,987.97 to reimburse the City for its special election costs and therefore met today's deadline for reimbursing the City for these costs.

Domaine values its relationship with the City and looks forward to working cooperatively with the Council, you and your staff to correct the quarterly deposit schedule, finalizing Domaine's agreement to reimburse the City for a portion of its LCP costs, clarifying the process for future review and payment of consultant invoices, and ensuring that all consultant invoices are paid.

Domaine further desires and requests your ongoing assistance to resolve the misperceptions and to avoid any further discourse in the press relating to Domaine's reimbursement obligation that is an unnecessary distraction for all. The Domaine team stands ready to assist you in briefing the Council, correcting these misperceptions, and providing the appropriate assurances moving forward.

Sincerely,



Jason Retterer

cc: David Laredo
Curtis Williams
Ron Meer
Bruce Haniford
Jared Ficker



EMC PLANNING GROUP INC.
A LAND USE PLANNING & DESIGN FIRM

801 Lighthouse Avenue Suite C Monterey CA 93940
Tel 831-649-1799 Fax 831-649-8399 www.emcplanning.com

City of Pacific Grove
Community & Economic Development Dept.
300 Forest Avenue
Pacific Grove CA 93950
Attn: Mark Brodeur

Invoice

DATE	INVOICE NO.
7/31/16	16-338
DUE DATE	TERMS
8/30/16	Net 30
BILLING PERIOD	
July 2016	
CLIENT PROJECT NO.	

PROJECT NO.	PROJECT NAME		PROJECT LOCATION	
PP-101	Project Bella Staff Support		Pacific Grove, California	
ITEM	DESCRIPTION	QTY	RATE	AMOUNT
TR/16	Tiffany Robinson, Administrative Assistant	1.78	95.00	169.10
CS/16	Cris Staedler, AICP, Senior Principal	2.5	210.00	525.00
BT/16	Bryce Ternet, Senior Planner	1	155.00	155.00
	Subtotal			849.10
Copying	Copying Expenses (Internal)		5.50	5.50
Postage	Postage Expenses (Internal)		0.47	0.47
	Subtotal			5.97
ExpenseAdmin.	Direct Expenses Administration (10%)		10.00%	0.60
				7148
Project Bella Make sure this gets a description of Project Bella GOODS/SERVICES RECEIVED & APPROVED TO PAY Acct #: 01-201-5202 Amt: \$ 855.67 Acct #: Amt: \$ Description: Project Bella Reimbursement Approved By: [Signature] 8/22/16 For invoice questions, please contact Cris Staedler at staedler@emcplanning.com or (831) 649-1799 x202. For professional services rendered. TOTAL \$855.67				



EMC PLANNING GROUP INC.
A LAND USE PLANNING & DESIGN FIRM

301 Lighthouse Avenue Suite C Monterey CA 93940
Tel 831-649-1799 Fax 831-649-8899 www.emcplanning.com

City of Pacific Grove
Community & Economic Development Dept.
300 Forest Avenue
Pacific Grove CA 93950
Attn: Mark Brodeur

P.O. #:
VENDOR #: 7148
USE TAX:

Invoice

DATE	INVOICE NO.
4/30/16	16-190
DUE DATE	TERMS
5/30/16	Net 30
BILLING PERIOD	
March-April 2016	
CLIENT PROJECT NO.	

PROJECT NO.	PROJECT NAME	PROJECT LOCATION		
PP-101	Project Bella Staff Support	Pacific Grove, California		
ITEM	DESCRIPTION	QTY	RATE	AMOUNT
MG/16	Michael Groves, AICP, Senior Principal	10	210.00	2,100.00
SGA/16	Susan Groves-Ameli, Administrative Assistant	0.27	95.00	25.65
CS/16	Cris Staedler, AICP, Senior Principal	2.25	210.00	472.50
BT/16	Bryce Ternet, Senior Planner	66.5	155.00	10,307.50
	Subtotal			12,905.65
Mileage	Mileage Expenses (Internal)		4.86	4.86
Copying	Copying Expenses (Internal)		11.00	11.00
	Subtotal			15.86
ExpenseAdmin.	Direct Expenses Administration (10%)		10.00%	1.59
Subs	ADE (See Attached)		16,541.61	16,541.61
	Subtotal			16,541.61
SubsAdmin.	Subconsultant Administration (10%)		10.00%	1,654.16
	Total Budget \$198,150.00			
	Prior Billing \$0.00			
	Current Billing \$31,118.87			
	Total Billing \$31,118.87			
	Remaining Budget \$167,031.13			
	Estimated Percent Complete: 16%			

PAID AUG 12 2016

FY 15/16

GOODS/SERVICES RECEIVED &
APPROVED TO PAY

Acct #: 0-201-5202 Amt: \$31,118.87

Acct #: Amt: \$

Description: Project Bella Reimburse

Approved By: [Signature] [Signature]

For invoice questions, please contact Cris Staedler at
staedler@emcplanning.com or (831) 649-1799 x202.

PAID AUG 12 2016

FY 15/16

GOODS/SERVICES RECEIVED & APPROVED TO PAY

Acct #: 0-201-5202 Amt: \$31,118.87

Acct #: Amt: \$

Description: Project Bella Reimbursement

Approved By: [Signature]

TOTAL \$31,118.87

Thank you for the opportunity to provide you with our services!

3 Months Past Due!
[Signature]

ANIMAL CONTROL IN MONTEREY COUNTY



SUMMARY

The Department of Health is the third largest department in Monterey County. A review of Grand Jury Reports for the prior five years revealed it had not been investigated during that time. The organization chart indicates there are ten different agencies or bureaus within the Department of Health and there are numerous sub-divisions within each agency and bureau. It is beyond the scope of the Monterey County Civil Grand Jury (Jury) to attempt a comprehensive review of the entire Department of Health. This report focuses on Animal Services, a division within the Environmental Health Bureau.

During the preliminary investigation the Jury learned the Monterey County (County) and the City of Salinas (City) shelters are located within 200 feet of one another. The County shelter is on land leased from the City. The Jury also learned that the Board of Supervisors and the City Council were considering entering into an agreement that could lead to a consolidation of services.

This report addresses the County and City Animal Services budgets and staffing, the number of animals coming into and leaving the shelter, why they come in and how they leave. The Jury also reviewed progress toward consolidation of services at the two shelters and identified areas that should be considered. Finally, all incorporated cities within the county were surveyed to see how they provide animal control services, particularly how impounded animals are sheltered.

BACKGROUND

Both the County and City shelters are located in the City of Salinas. The City shelter is at 144 Hitchcock and the County shelter is at 160 Hitchcock. Access from Hitchcock Road is via a private paved road. The County shelter is approximately a quarter mile from Hitchcock and the City shelter is about 200 feet beyond the County shelter.

City of Salinas Shelter



Courtesy of TerraServer.com 1

County of Monterey Shelter

Adequate signage exists when approaching the private drive from South Davis Road. However, when approaching from South Main Street there is no signage until reaching the intersection. This makes it difficult for the first time visitor to find either shelter.

The County shelter is located on land leased from the City since 12/20/2000. The lease is for an initial term of 55 years at \$1.00 per year with an extension for an additional 44 years at \$1.00 per year to be adjusted for inflation upon extension. The lease required animal shelter improvements to be constructed within 36 months. The improvements will belong to the City at the end of the lease. The City shelter was constructed in 2000, the County shelter in 2002. Although the shelters are located very close together and provide approximately the same services, each is separately staffed and managed.

In August 2015 the County and City agreed to jointly fund a "... collaborative feasibility study for operating the County and City animal shelters as one program." The report was received on June 28, 2016¹. On November 7, 2017 the Monterey County Board of Supervisors and the City of Salinas City Council entered into a Memorandum of Agreement which establishes an Animal Control Services Administration Pilot Project (Pilot Project). The purpose of the Pilot Project is to evaluate the feasibility of consolidating services and develop an operational implementation plan.

¹ Monterey County Board Report Legistar File Number 16-816.
<https://monterey.legistar.com/MeetingDetail.aspx?ID=493310&GUID=777B363D-4541-4753-BF69-6CC053CA1D8B&Options=info&Search=>

APPROACH

Interviews were conducted with management and staff who provide Animal Control Services to the County and City. Additional interviews and written surveys were conducted with management and staff who provide animal control services in all other incorporated cities within Monterey County.

Multiple site visits were made to the County and City animal shelters.

Several contracts involving animal control services were reviewed, including:

- A contract with a vendor to provide animal carcass removal services to the County. The same vendor provides this service to the City of Salinas
- A contract between the County and California State University Monterey Bay (CSUMB) wherein the County provides bite investigation and rabies services to CSUMB
- A contract between the County and the City of Greenfield wherein the County provides bite investigation, rabies services, shelter services, and animal carcass disposal to the City of Greenfield
- A contract between the County and the City of Carmel-by-the Sea to provide various animal control related services to the City of Carmel-by-the-Sea
- A contract between the City of Salinas and the City of Marina wherein the City of Salinas provides animal shelter services for dogs and cats to the City of Marina.

Various reports regarding the development of an agreement between the County and City to consolidate services at the two Animal Control Facilities were also reviewed. Most notable among these documents is the June 26, 2016 *County of Monterey and City of Salinas Animal Services Consolidation Agreement* by Management Partners.

The Jury also attended the following public meetings during which Animal Control services of the County, the City, or both were discussed:

- Monterey County Board of Supervisors
- Monterey County and City of Salinas Animal Services Ad Hoc Stakeholders Committee
- Monterey County Animal Control Program Advisory Board

DISCUSSION

County of Monterey Animal Services

Budget & Staffing

Animal Services is a division within the County Health Department. The 2017-18 Monterey County Recommended Budget includes the following Unit Description:

“Animal Services provides health protection to the residents of Monterey County through rabies and stray animal control. Animal Services also provides education, field response for dangerous animals, licensing, spay and neuter services and shelter for approximately 4,000 to 4,500 animals annually, which largely consist of animals coming in as stray and roaming animals.”

In addition to providing the above services within the unincorporated area, the County provides limited services to the following:

- California State University Monterey Bay (CSUMB) - the County provides bite investigation and laboratory services to determine whether an animal had rabies
- Cities of Carmel by the Sea and Greenfield - the County provides shelter services for domestic animals for up to 10-days, veterinary care when necessary, processing redemptions by owners, adoption or humane euthanasia and disposal

A summary of County budgets and anticipated revenue for the current year (CY) as well as the previous three fiscal years (FY) is shown below:

	2014-15 Actual	2015-16 Actual	2016-17 CY Estimate	2017-18 Recommended
Expenditure	1,799,871	1,842,095	2,034,927	2,156,416
Revenue	243,401	335,255	301,580	362,000

Expenditures have trended upward with an increase of 19.8% from the 2014-15 Actual Budget to the 2017-18 FY Recommended Budget. As noted in the chart above, revenue fluctuated from year to year during the same period.

County Staff for FY 2017-18 consists of 12 Full-Time Equivalent (FTE) and 7 Part-Time Equivalent (PTE) positions as shown below:

<u>Allocated Positions:</u>	<u>Filled Positions, as of 1/2018</u>
1.0 FTE Operations Manager	0
1.0 FTE Senior Animal Control Officer	1
3.0 FTE Animal Control Officer	2
1.0 FTE Senior Animal Care Technician	1
5.0 FTE Animal Care Technician II	3
1.0 PTE Animal Care Technician I	1
1.0 FTE Office Assistant III	1
2.0 FTE Office Assistant II	1
1.0 PTE Registered Veterinary Technician	1
1.0 PTE Veterinarian	0

Description of Facility

The County facility has the capacity to shelter 81 dogs and 112 cats. The operating room is designed to facilitate two simultaneous examinations, or spay/neutering operations. It is currently underutilized due to staff limitations, i.e. one part-time Veterinarian and one part-time Registered Veterinary Technician. The kennels have heated concrete floors. Dogs are typically assigned to an individual kennel with access to a fenced outside yard. The dog can be confined to either the inside or outside area for cleaning and maintenance of the facility. The shelter maintains separate areas for isolating ill animals and those suspected of being positive for parvovirus infection (parvo) but not yet ill. There are additional separately fenced yard areas where clients seeking to adopt can get acquainted with the dogs. The cat facility is entirely within the building with cats housed in separate cages. Separate rooms are provided for cats available for adoption, feral cats and for isolating ill cats. There is also a 'get acquainted room' where clients can relax and play with potential adoptees. The Jury found the shelter to be well maintained, clean and not overcrowded.

Shelter Population Statistics

The County and the City use Chameleon Software Products for tracking and administration. The software enables both entities to maintain a wide variety of statistics on animals coming into or leaving the shelter. Reliability of the data is dependent upon timely, accurate and complete input by various responsible staff members. Inaccuracies, if any, are not considered significant, especially when comparing data from year to year.²

Intake statistics include whether the animal was voluntarily relinquished by an owner, brought into the shelter by a non-owner or picked up as a stray. Photos of each animal entering the shelter are taken and, together with a brief description, uploaded to a search website.³ The software enables staff to track the date an animal was brought in and information gleaned upon intake.

² The following shelter data was provided by Monterey County Animal Control from the Chameleon program.

³ The website, which will be described in more detail later in the report, is part of the Chameleon program.

Placement and disposal statistics are also maintained for animals returned to owner, transferred to another site, adoption and euthanasia.

The number of dogs, cats and other animals, such as pet rabbits, gerbils, chickens etc. coming into the shelter is shown below:

	TOTAL INTAKE	CATS	DOGS	OTHER
FY 14-15	2,472	1,096	1,326	50
FY 15-16	2,748	1,200	1,462	86
FY 16-17	2,787	1,267	1,440	80

Most animals come into the shelter as strays. Other sources are owner surrender and transfers from other agencies. The number of stray animals entering the shelter, and the percentage of total intake is shown below:

FY 14-15		FY 15-16		FY 16-17	
Strays	% of Total	Strays	% of Total	Strays	% of Total
1,901	77%	2,006	73%	2,173	78%

Most stray animals are brought into the shelter by Animal Control Officers (ACO) but some are brought in by members of the public. In addition to picking up stray animals, ACOs respond to calls from the public that may report animal bites, animal hoarding, animal fights etc. County ACOs patrol the entire unincorporated area of Monterey County.

In addition to intake statistics, output statistics are available. Output statistics record how animals leave the shelter. Please note, the number of intakes and outputs within each fiscal year do not match. The discrepancy is due to the fact that some animals arrive near the end of one fiscal year, yet do not leave the facility until the following fiscal year.

State law⁴ specifies a minimum holding period of 6 business days for stray domestic cats and dogs. However, in recognition of the stress induced in feral cats by being caged, state law specifies stray feral cats need only be held 3 business days. Once the holding period is met or waived, the animal may be adopted, transferred to a “rescue”⁵ agency or euthanized.

Owners may bring their animals to the shelter and sign a release waiving the holding period. The waiver allows immediate adoption, transfer to a “rescue” agency or euthanization. During the Jury inquiry, it was found shelter staff misunderstood County procedures and were requesting waivers from anyone bringing feral cats into the shelter, resulting in immediate, or very nearly immediate, euthanization. This has been corrected and it is anticipated the average holding

⁴ California Food and Agricultural Code §31752. (holding period for impounded cats), §31752.5 (holding period for feral cats) and §31108 (holding period for impounded dogs).

⁵ A rescue agency is generally a non-profit organized to rescue animals which are not good candidates for adoption. See Appendix B for a representative list from the Pet Harbor website.

period will increase, possibly impacting the number of staff needed to provide minimal daily care as described in the following Shelter and Staffing section of this report.

CAT OUTCOME	FY 14-15	FY 15-16	FY 16-17
Adoption	60	74	121
Disposal	13	31	24
Returned to Field	1	-	-
Returned to Owner	18	14	16
Transfer	298	271	197
Euthanasia	701	791	898
Total	1,091	1,181	1,256

“Disposal” refers to deceased cats. “Returned to Field” refers to feral cats which are released after they have been spayed or neutered provided they were picked up from an area considered appropriate for release and not overly populated with feral cats. Cats transferred out typically go to organizations specializing in rescue and placement of cats. Euthenized cats have typically either entered the shelter from an owner who has consented to euthanization, or are feral and ill, very young or old and not likely to survive on their own. Approximately 70% of the cats entering the shelter have been euthenized over the past three years.

Given that the preponderance of cats coming into the shelter are strays, and the preponderance of outputs are through euthenasia, it is likely the county would benefit from a more aggressive spay/neuter program coupled with more education and outreach regarding owner responsibility.

Output data for dogs leaving the shelter are shown below:

DOG OUTCOME	FY 14-15	FY 15-16	FY 16-17
Adoption	161	210	245
Disposal	15	21	15
Returned to Owner	266	314	342
Transfer	586	624	485
Euthanasia	315	300	331
Total	1,343	1,469	1,418

Approximately 78% of dogs entering the shelter over the past three years were adopted, returned to their owner or transferred to a rescue facility.

Other than feral cats discussed above, euthanizing animals is generally limited to those that are too ill or too aggressive to be either adopted or transferred to a rescue group. An additional cause is when an animal is showing signs of stress due to being caged for a long period of time.

Shelter Capacity and Staffing

The Jury visited each shelter twice and observed that both shelters had some empty kennels and cages. The Jury noted the shelters were clean, devoid of obnoxious animal odors and appeared to be well maintained. The Jury was told both shelters use volunteers in addition to paid staff.

The Jury did not rely solely on their observations during two visits, or staff comments regarding the sufficiency of shelter capacity or staffing. The National Animal Care and Control Association (NACA) website⁶ provides guidelines for determining necessary shelter capacity and the minimum number of staff needed to provide minimum kennel care (see Appendix A).

The formula for County shelter capacity based on average length⁷ of stay is shown below.

$$\begin{aligned}\text{CATS } 1,188 \div 365 \times 6.5 \text{ days at shelter} &= 22 \\ \text{DOGS } 1,409 \div 365 \times 8.9 \text{ days at shelter} &= 35\end{aligned}$$

The County shelter has 112 cat cages and 81 dog kennels, well above the current number needed.

NACA “recommends that each animal care and control shelter be staffed each day with the appropriate number of kennel personnel to insure that the facility, and every animal within, is maintained at, or in excess of, minimum care standards”. In this formula, daily care is defined only as feeding the animals and cleaning the kennels and cages. It does not account for the additional staff needed for veterinary care, administration, front office help, work done by Animal Control Officers, dispatch, or grounds and building maintenance.

As previously noted, there are 6.5 Animal Care Technicians, including the Senior Technician; 6.0 positions were filled as of January 2018. The shelter is open Tuesday through Saturday noon to 5:00 pm. The morning hours are spent cleaning and feeding the animals. The balance of the workday is necessary for other tasks such as processing animals into or out of the shelter, administrative duties, and providing animal care beyond the requirement of feeding and cleaning etc.

The NACA formula and calculation of kennel staff needed at the County shelter is shown in Appendix A. The indicated result of 4.8 does not account for vacation, sick leave, time needed to fill vacancies or other necessary absences from work. Based on a 40 hour work week with 10 holidays, 10 vacation days and 10 days paid sick leave per year, the above number requires an adjustment of 11.5%. Therefore the minimum kennel staff is estimated to be 5.4 positions. The current staffing of 6.5 full-time equivalent Animal Care Technicians is greater than the minimum number indicated by the formula. However, as previously noted, feral cat length of stay will likely increase going forward, impacting the number of staff needed for minimum care.

⁶ <http://www.nacanet.org/>

⁷ Average length of stay was extrapolated from the input and output dates of animals released from the shelter in September 2016.

Finding Lost Pets or Pets Suitable for Adoption

Both the County and City websites provide links to Pet Harbor⁸, a segment of the Chameleon program that allows the public to search for lost pets or to look at pictures and descriptions of pets available for adoption. However, the County and City websites leading to the link are configured differently. It is not intuitive or easy to access Pet Harbor from the County website. Entering Monterey County Animal Control into a search engine takes one to a web page which includes, among other things, an A-Z Index of all services provided by the Health Department. The Index provides links to Animal Bite Report, Animal Control Ordinances and Codes, Animal Control Program Advisory Board, Animal Licensing and Animal Services. Selecting Animal Services takes one to a page with a link to finding a lost pet or identifying an adoptable pet. The City website is much more accessible. Entering City of Salinas Animal Control into a search engine takes one directly to the City website; the link to Pet Harbor is on the first page.

The Pet Harbor website is designed to allow the public to search for lost and adoptable pets by the categories of dog, cat or other. The search area is defined by zip code or city name and can be adjusted to a search radius of 10, 25, 50 or other miles. Reaching Pet Harbor from either the County or the City link results in an initial search of either the County or the City shelter. The website also provides the ability to select multiple shelters or local private rescue groups. A list of shelters and local private rescue groups that can be searched, and a sample of pictures and descriptions are included in Appendix B. Persons identifying a lost animal or interested in adopting can communicate their intent to the agency directly from the website. The animal will be held until the owner or the party interested in adoption can come into the shelter.

City of Salinas Animal Services

Budget & Staffing

In Salinas, Animal Services is a division of the Police Department. The purpose of the division is described in the 2017-18 Adopted Budget as:

“Provide effective animal control, licensing, lost/found and adoption programs for all stray and unwanted animals within the city.”

In addition to providing animal services within the City of Salinas (City), the City also contracts with the City of Marina. The contract is for shelter services only; it does not include licensing, patrol, or investigation of bite reports or other animal violations.

⁸ <http://petharbor.com/>

A summary of City of Salinas budgets and revenue⁹ is shown below:

	Actual 2014-15	Actual 2014-15	Amended 2016-17	Proposed 2017-18
Expenditures	852,849	893,322	1,067,269	1,099,620
Revenue	186,283	202,090	192,600	192,600

Like the County, City expenditures have trended upward over the past four years with an increase of 28.9% from the actual expenditures in FY 2014-15 to proposed expenditures in 2017-18. Similar to the County, City revenue has not kept pace with expenditures over the same period.

Salinas' animal services staffing for FY 2017-18 consists of a combination of 7 Full-Time Equivalent (FTE) and 5 Part-Time Equivalent (PTE) positions as shown below:

<u>Allocated Positions:</u>	<u>Filled Positions:</u>
2 FTE Animal Control Officers	2
3 FTE Kennel Staff	3
2 PTE Kennel Staff	2
2 FTE Front Office/Administration	2
3 PTE Front Office/Administration	2

The City contracts with a private veterinarian. The veterinarian comes to the shelter two days per week and spends 1.5 to 3.0 hours, depending upon the services needed. The City does not have a licensed veterinary technician. Kennel staff move animals to and from the kennels or cages, and provide general assistance that does not require training as a veterinary technician. Kennel staff are trained and authorized to perform euthanasia.

Description of Facility & Shelter Population

The shelter has 93 dog kennels and 92 cat cages. The Jury noted that not all of the dog kennels are useable at all times as the concrete floors do not completely dry out after the kennel is washed. During wet weather, ground water tends to seep into the kennels. Approximately ten kennels are thus affected and kennel capacity is reduced. Staff reported that significant efforts to correct this problem have not been successful. As noted later in this report, shelter capacity exceeds the number of kennels needed.

Dogs are housed individually in kennels with an attached, fenced, outside area. Dogs can be isolated either inside or outside when cleaning or maintenance is required. The shelter maintains separate areas for isolating ill animals and those suspected of being positive for parvovirus infection (parvo) but not yet ill. There are also multiple outside yards where clients seeking to adopt can get acquainted with the dogs.

⁹ 2014-15, 2015-16, 2016-17 and 2017-18 Operating Budget Documents.

The cat cages were replaced in 2013-14 with cages that have removable partitions allowing easy reconfiguration. This is beneficial, not only for moving an inhabitant cat from a portion of the cage while it is cleaned, but also for housing multiple cats in the same enlarged cage when, for example, it is known they are from the same litter or home. Adoptable cats are housed in a separate room from feral cats. Another room is used to isolate ill cats.

Evidence of rodent control measures was observed when the Jury visited the shelter. Staff indicated it is kept under control by regular visits from a commercial extermination company. When visited, the Jury noted the shelter appeared to be well maintained, clean and not overcrowded.

The City uses Chameleon Software Products¹⁰ to record and maintain statistics on animals coming into (intake) and leaving (output) the shelter. The chart below shows the total animal intake over the past three years broken out by cats, dogs and other types of animals.

	TOTAL INTAKE	CATS	DOGS	OTHER
FY 14-15	3,899	1,981	1,792	126
FY 15-16	3,559	1,749	1,725	85
FY 16-17	3,616	1,712	1,811	93

City statistics show most animals come into the shelter as strays. Other sources are owner surrender and transfers from other agencies. Like the County, most strays are picked up by the two City ACOs. The ACOs are also responsible for responding to calls from the public related to animal control issues. The number of strays and their percentage of the total intake are shown below:

FY 14-15		FY 15-16		FY 16-17	
Strays	% of Total	Strays	% of Total	Strays	% of Total
3,295	85%	2,891	81%	3,020	84%

In addition to intake statistics, statistics are also available on the reason animals leave the shelter. Once again, the number of intakes and outputs within each fiscal year do not match due to the fact that some animal come in near the end of one fiscal year and go out in the following fiscal year.

CAT OUTCOME	FY 14-15	FY 15-16	FY 16-17
Adoption	144	137	230
Died/Disposal	149	195	134
Returned to Field	309	269	225
Returned to Owner	36	23	39

¹⁰ Statistical data provided by City of Salinas staff from the Chameleon program.

Transfer	265	252	228
Euthanasia	1,071	872	839
Total	1,974	1,748	1,695

The City has a program for returning feral cats to the field after they have been spayed/neutered. A total of 803 feral cats were returned to the field over the three year period, compared to only one returned to the field from the County shelter. The number of cats euthenized over the past three years is approximately 50% compared to the County cat euthenization of approximately 70%.

Output data for dogs leaving the shelter are shown below:

DOG OUTCOME	FY 14-15	FY 15-16	FY 16-17
Adoption	309	259	278
Died/Disposal	84	109	83
Returned to Owner	410	494	569
Transfer	640	583	589
Euthanasia	382	277	296
Total	1,825	1,722	1,815

Approximately 77% of dogs entering the shelter over the past three years were adopted, returned to their owner or transferred to a rescue facility, very nearly equal to the County shelter outcome of 78%.

As noted earlier, euthanizing animals is generally limited to those that are too ill or aggressive to be adopted or transferred to a rescue organization. An additional cause is when an animal is showing signs of stress due to being caged for a long period of time.

Shelter Capacity and Staffing

As more fully described earlier in this report, the Jury used the formulas developed by The National Care and Control Association (NACA) to estimate shelter capacity and the minimum number of staff required for kennel care.

The calculation for the City shelter capacity based on average length of stay¹¹ is shown below.

$$\begin{aligned}\text{CATS } 1,814 \div 365 \times 9.7 \text{ days at shelter} &= 49 \\ \text{DOGS } 1,776 \div 365 \times 10.43 \text{ days at shelter} &= 51\end{aligned}$$

The City shelter has 92 cat cages and 93 dog kennels, well above the current number needed.

¹¹ Average length of stay was extrapolated from the input and output dates of animals released from the shelter in September 2016.

As previously noted, the NACA website also provides guidance for estimating the number of staff necessary to provide minimal daily care. The calculation for the City Shelter is shown in Appendix A. The indicated result of 7.5 kennel staff does not account for vacation, sick leave, time needed to fill vacancies or other necessary absences from work. Based on a 40 hour work week with 10 holidays, 10 vacation days and 10 days of paid sick leave per year, the above number requires an adjustment of 11.5%. Therefore the minimum kennel staff is estimated to be 8.4 positions.

City shelter kennel staffing currently consists of 3 full-time and 2 part-time positions. The Jury's observation was that the animals are well cared for and the premises are clean and devoid of obnoxious odors. Upon inquiry, the Jury learned that the City shelter has a very active volunteer program. Based on the foregoing it is considered unlikely that animal care and maintenance could be maintained without the volunteer program.

Finding Lost Pets or Pets Suitable for Adoption

The City provides a link to find lost and adoptable pets through the same Pet Harbor software as the County, described earlier in this report.

Other Municipalities' Animal Services

The County and the City are the only public agencies providing mid- to long-term shelter, adoption and euthanasia services. The SPCA, a private non-profit agency, also provides some or all of those services as do a number of private rescue groups.

All of the incorporated cities within Monterey County were either surveyed by mail or visited to determine what animal control services they provide.

Unlike the County, virtually all city animal services are located within City Police Departments. Most cities have Animal Control Officers (ACO) on staff; the exception being the cities of Del Rey Oaks, Sand City and Monterey. Animal control in those three cities is provided by Community Service Officers or Police Officers. Even in jurisdictions with ACOs (including the City of Salinas and the County) coverage by ACOs cannot be provided 24/7. When ACOs are not available, Sheriff's Deputies, Police Officers or Community Service Officers provide coverage, particularly in situations where an animal is injured, has become dangerous, or is a public nuisance. Injured animals are generally treated at local veterinary clinics. Most cities have temporary holding cages which are used to confine animals prior to transport.

Jurisdictions uniformly attempt to reunite stray animals with their owners when microchip, license tag or other owner information is available. Unidentifiable strays are generally held for a limited period prior to transport to the Salinas, County or SPCA shelter. The city which picked up the stray is responsible for transport of the animal.

Statistics for city ACOs, temporary holding kennels, holding periods prior to transport, and transfers to other agencies, are shown below:

	ACOs	Kennel	Retention Prior to Transfer	Transfer to
Carmel-by-the-Sea	2	dogs & cats	8 hours	County or SPCA
Del Rey Oaks	0	none	n/a	SPCA
Gonzales	1	dogs		SPCA
Greenfield	1FTE & 1 PTE	dogs & cats	3-4 days	County
King City	1	none	n/a	SPCA or SCAR
Marina	2	dogs	24 hours	Salinas Animal Shelter
Monterey	0	dogs & cats	few days	SPCA
Pacific Grove	1	dogs, cats, birds	1-3 days	SPCA
Sand City	0	dogs	1-2 days	SPCA
Seaside	1	dogs	24 hours	SPCA
Soledad	1	none	transfers twice/week	SPCA

Opportunities for Consolidation of Services

Historically, the County of Monterey and the City of Salinas have not contracted with one another to jointly provide animal services. Discussion of combining services at the two shelters began in 2015.

Consolidation Report

In June 2016 Management Partners, a consulting firm jointly engaged by the County and City, published their report “County of Monterey and City of Salinas Animal Services Consolidation Agreement” (Consolidation Report). The Consolidation Report is a comprehensive study of the feasibility of operating both Animal Shelters as one program. The Consolidation Report identified and detailed the following four Options for consolidating services:

“Option A: Share an Animal Services Director to Oversee both Operations.”

The proposed Director would not replace the two Animal Services Managers; leadership and supervision would still be separately provided at each operation. This option was considered relatively easy to implement as the impact on employees would be minimal. They would continue employment with either the County or the City and separate supervisorial structures would be maintained. It was thought the Director could facilitate resolution of misunderstandings and bring the two animal shelter policies, procedures and practices into closer alignment. Cost savings were not anticipated; additional expense for the additional position was considered likely.

“Option B: Share an Animal Services Director and Consolidate Field Services.”

At the time of the report the County had three Animal Control Officers (ACOs) and one Senior Animal Control Officer. The City has two ACOs. The County ACOs patrol a significantly larger geographic area while the City ACOs patrol a larger population. As with

option A, the proposal was for the ACOs to continue to report to either the county or the city. The Director would be expected to mediate conflicts and develop standard procedures to be followed by both agencies. The proposal also called for consolidating dispatch into a single unit. It could improve response time as calls from unincorporated areas near Salinas could be handled by either Salinas or County ACOs. The geographic areas of each ACO could be modified to maximize coverage without increasing ACO staff.

“Option C: Share a Director and Consolidate Field Services, Administrative Support and Licensing Functions.”

This option is considered to be an outgrowth of implementation of options A and B. It was envisioned that the consolidation of services would provide a “one stop shop” for adoptions and inquiries about lost animals. Public Service would be enhanced if both entities used the same licensing software, maintained the same fee schedules and shared staff at both facilities. Some identified obstacles were the need to identify service levels, costs to each entity, and labor concerns, particularly due to differences in salary and benefits.

“Option D: Fully Consolidate Animal Services Functions.”

Full consolidation into a single entity would likely require a contractual arrangement whereby one entity assumes full responsibility, or through the formation of a Joint Powers Agreement (JPA).

The formation of a JPA was described as having the greatest opportunity for economies of scale. It also acknowledged it would be the most difficult to achieve. Primary among the difficulties would be governance, financial contribution from each entity, labor issues related to salary and benefits, and standardization of procedures.

Memorandum of Agreement

On November 7, 2017 the Monterey County Board of Supervisors and the Salinas City Council entered into a Memorandum of Agreement (MOA)¹² for an Animal Control Services Administration Pilot Project. The MOA is the result of the efforts of County staff, City Staff, Service Employees International Union (SEIU), and other interested parties. The terms of the agreement include the following:

- The County shall provide an Animal Services Administrator who will spend at least 18 hours per week on-site at the Salinas Animal Shelter and the remainder of the week at the County Shelter. The Administrator will receive general direction from the County Director of Health, or designee, and work with the Salinas Police Services Administrator regarding communication and on-going Salinas shelter activities.

¹² <https://monterey.legistar.com/Calendar.aspx> - open Agenda for 11/7/2017; the Agreement is attached to agenda item 11.

- “The Administrator shall provide overall direction, management and control regarding the provision of Consolidated Services. The Administrator shall provide direct management and supervision of County personnel with respect to such services. The City shall have direct management and supervision of City personnel with respect to such services.”
- The City shall reimburse the County for 45% of the costs of the Administrator.
- The term of the MOA begins on the date the Administrator begins performance of duties.¹³
- “The personnel performing services under this MOA on behalf of County shall at all times be under the County’s exclusive direction and control. The personnel performing services under this MOA on behalf of City shall at all times be under City’s exclusive direction and control. Neither City, nor any of its officers, employees or agents shall have control over the conduct of the Administrator or any other County personnel. Neither the County nor any of its officers, employees or agents shall have control over the conduct of the Animal Services Supervisor or any other City personnel.”
- “Within five (5) months from the beginning date of this MOA, County shall provide City with a written evaluation and recommendations regarding all opportunities for shared animal services.”
- “Within eight (8) months from the beginning date of this MOA, County shall provide a written proposal for an operational implementation plan, such plan to identify next steps, effective dates, and needed resources to support implementation of additional shared animal services.”

FACTS

- (1) The County and City shelters are located within 200 feet of one another.
- (2) Signage on Hitchcock Road is inadequate when approaching the shelter access road from South Main Street.
- (3) Both the County and City provide Statements of purpose in their respective annual budgets.
- (4) The County has more staff than the City and serves a smaller population of shelter animals.
- (5) The County has 12 full-time (FTE) and 5 part-time (PTE) allocated positions. The average number of animals brought into the shelter over the past three years is 2,669 per year.

¹³ Recruitment for the position was scheduled to close on January 31, 2018.

- (6) The City has 7 FTE and 5 PTE allocated positions. The average number of animals brought into the shelter over the past three years is 3,691 per year. The City relies on volunteers to perform tasks ordinarily assigned to paid personnel.
- (7) The County has a full time Operations Manager, currently vacant. The City Shelter is managed by a Police Services Administrator, a member of the Police Department.
- (8) The County has 1 Senior and 3 Animal Control Officers (ACO). The City has 2 ACOs. All positions are full time.
- (9) The County processed an average of 2,027 strays per year and the City processed an average of 3,069. Most strays are picked up by ACOs.
- (10) The unincorporated area of Monterey County is approximately 3,700 square miles. The area within the Salinas city limits is 23 square miles.
- (11) The County has 1 full-time Sr. Animal Care Technician, 5 full-time Animal Care Technician IIs and 1 part-time Animal Care Technician I. The NACA formula indicates minimum animal care personnel for the shelter population is 5.4 positions.
- (12) The equivalent City positions are identified as Kennel Staff with 3 full-time and 2 part-time positions. The NACA formula indicates minimum animal care personnel for the shelter population is 8.4 positions.
- (13) The County has 3 full-time Front Office/Administration positions; the City has 3 full-time and 2 part-time positions.
- (14) The County has one part-time Veterinarian on staff and one part-time Registered Veterinary Technician.
- (15) The City contracts with a Veterinarian to provide services 3 to 6 hours per week but does not have a Registered Veterinary Technician on staff nor do they contract for this position.
- (16) The County has career ladders in three personnel classifications; Animal Control Officer and Senior Animal Control Officer; Animal Care Technician I, Animal Care Technician II and Senior Animal Care Technician; and, Office Assistant II and Senior Office Assistant.
- (17) The County has 81 dog kennels and cages for 112 cats or other small animals. The City has 93 kennels and 92 cages.
- (18) Over the past three fiscal years, the County returned only 1 feral cat to the field. During the same period, the City returned 803 feral cats to the field after they were spay/neutered.
- (19) 67% of all cats entering the County shelter are euthanized. 51% of all cats entering the City shelter are euthanized.

- (20) Approximately 78% of the dogs entering the County shelter, and 77% of the dogs entering the City shelter, were adopted, returned to their owner or transferred to a rescue facility over the past three years.
- (21) Both the County and City provide links to Pet Harbor, a website for the public to locate lost pets or to look at pictures and descriptions of pets available for adoption.
- (22) City shelter cat cages were replaced in 2013-14. The replacement cages have removable partitions which allow them to be easily reconfigured.
- (23) The County and City have entered into a Memorandum of Agreement (MOA) to explore combining services at the two animal shelters.
- (24) The MOA provides for an 18 month Pilot Project, hiring an Animal Services Administrator and production of reports at 5 and 8 months into the project. The 5-month report is to be a written evaluation and recommendation for combining services. The 8-month report is to be a written proposed operational implementation plan.

FINDINGS

- F1. The lack of signage on Hitchcock Road poses a safety hazard for traffic approaching the turn to the animal shelters from South Main Street.
- F2. The purpose statements included in the budgets of the two entities are appropriate and recognize the importance of public service. The County statement focuses on rabies control and health concerns. The City statement focuses on return and placement of lost and unclaimed animals. When considering the two shelters as totally separate entities both statements are relevant and appropriate. However, fundamental differences may impede the consolidation process.
- F3. The Pilot Project will impose greater responsibility on the County Operations Manager and the Animal Services Administrator.
- F4. The difference in staffing of Animal Control Officers is considered reasonable because the County is patrolling a much larger geographic area than the City.
- F5. The City provides services for an animal population 38% greater with an overall staff that is 39% smaller than the County.
- F6. It is unlikely that animal care and maintenance at the City shelter could be maintained at an appropriate level without the volunteer program.
- F7. County Animal Control personnel have career ladders providing greater promotional opportunities than the City.
- F8. Both shelters have the physical capacity to shelter more animals.

- F9. Given that the preponderance of cats coming into the County shelter are strays, and the preponderance of outputs are through euthanasia, it is likely the county would benefit from a more aggressive spay/neuter program coupled with more education and outreach regarding owner responsibility.
- F10. Access to the Pet Harbor website is much simpler from the City website than from the County website.
- F11. Cat cages at the City shelter, which were replaced in 2013-14, provide greater cleaning efficiency and less stress on the cat than the older-style County cat cages.
- F12. If successful, the combination of services at the two shelters should result in less public confusion when looking for a lost animal or preparing to adopt one.
- F13. If successful, the combination of services should result in greater effectiveness, efficiency and consistency of procedures for both the City and County.
- F14. The MOA and resulting Pilot Program are positive steps toward consolidation of Animal Control Services.
- F15. Success of the Pilot Project will be dependent, at least in part, on having the day-to-day operations of the separate shelters handled efficiently with sufficient time available to support the efforts of the Animal Services Administrator throughout the period of the Pilot Project.

RECOMMENDATIONS

- R1. The City and the County should determine responsibility¹⁴ for signage and install a sign on the northeast side of Hitchcock Road an appropriate distance from the intersection with the shelter access road.
- R2. The City and the County should bring together the entire staff from both shelters for the purpose of developing a single statement of purpose.
- R3. The County should fill the position of Operations Manager.
- R4. The City should review the duties currently assigned to the Police Services Administrator and, if necessary, reduce the scope of currently assigned duties.
- R5. As part of the Pilot Project, staffing levels at both facilities be reviewed.

¹⁴ While both shelters are within the City limits; it is unclear what part of Hitchcock Road is within the City limits, if any.

- R6. Future consolidation should include methodology for current employees of either entity to compete in promotional examinations for vacancies at either shelter.
- R7. Regardless of the outcome of the MOA and the Pilot Project, City and County staffing levels and procedures should be reviewed
- R8. Regardless of the outcome of the MOA and Pilot Project, the City and the County should contact incorporated cities which are not currently under contract, to determine if their animal shelter needs could be met by either entity. If so, contracts should be pursued.
- R9. The County should consider the advantages and disadvantages of a feral cat spay/neuter program, and begin returning neutered feral cats to the field when appropriate.
- R10. The County should review and streamline access to the Animal Services website.
- R11. When County cat cages require replacement, the County should purchase reconfigurable cages.
- R12. A copy of this report should be provided to the Animal Services Administrator.
- R13. The Jury requests that copies of both the 5 and 8-month written reports be provided to the Monterey County Civil Grand Jury impaneled as of the date of the release of the reports.
- R14. The Jury requests the County and City invite other incorporated cities to join with them in developing a Joint Powers Agreement or Joint Powers Authority so that a separate legal entity could be established to provide animal control services to all jurisdictions within the County.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Monterey County Civil Grand Jury requests a response to Findings and Recommendations as follows:

- County of Monterey Board of Supervisors: F1-F4, F7-F17 and R1-R3, R5-R14.
- City of Salinas: F1-F8, F11-F15 and R1-R2, R4-8, R12-R14.

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

INVITED RESPONSES

Service Employees International Union (SEIU): F5-F7 and R5-R7.

APPENDIX A

“FORMULA FOR DETERMINING STAFFING NEEDS

(Incoming Animals Per Year)	Divided by 365 (days per year)	(Incoming Animals Per Day)
(Incoming Animals Per Day)	Times Four* Day Holding Period =	(Animals in Shelter Per Day)
(Animals in Shelter Per Day)	Times 15 minutes** per animal =	(Number of Minutes Needed)
(Minutes Needed)	Divided by 60 (minutes) =	(Number of Hours Needed)
(Number of Hours Needed)	Divided by 3 *** (hours for cleaning/feeding) =	Staff Needed Per Day

* The HSUS is using the average holding period of four days as a basis for this study. Some animals may be held for a much shorter period; however, many animals may be held for a period exceeding the four day requirement.

** This formula is based on a per-animal time of 9 minutes for cleaning and 6 minutes for feeding.

*** These 3 hours are solely for the performance of these two tasks, but allowing for further time in the day to perform routine maintenance tasks such as laundry, dishes, lost and found checks, etc.”¹⁵

The calculation shown below are for the number of positions needed for minimal daily care at each of the two shelters. It is based upon the averages intake over the prior three years. The average number of animals to be cared for per day was extrapolated from the input and output dates of animals released from each shelter in September 2016.

COUNTY SHELTER

2,669.0	÷	365.0	=	7.3	Average animal intake per day based on prior 3-yr
7.3	x	7.9	=	57.7	Average number to be cared for per day
57.7	x	15.0	=	865.5	Minutes required per day to provide for minimum daily care
865.5	÷	60.0	=	14.4	Hours required per day
14.4	÷	3.0	=	4.8	Positions

CITY SHELTER

3,691.3	÷	365.0	=	10.1	Average animal intake per day based on prior 3-year average
10.1	x	8.9	=	89.9	Average number to be cared for per day
89.9	x	15.0	=	1,348.5	Minutes required per day to provide minimum daily care
1,348.5	÷	60.0	=	22.5	Hours required per day
22.5	÷	3.0	=	7.5	Positions

¹⁵ National Animal Care and Control Association.

APPENDIX B

PET HARBOR LISTS THE FOLLOWING AGENCIES AS PROVIDING DATA ON ANIMALS SHELTERED AT THEIR SITES (As of December 4, 2017):

Monterey County Animal Services: Salinas, CA 74 animals

Salinas Animal Shelter: Salinas, CA: 90 animals

Adoptable Pets **ONLY** (Includes Many Rescue Groups):

Animal Friends Rescue Project: Pacific Grove, CA 95 animals

Brandy Sleddogs Rescue of Central California: Pacific Grove, CA 6 animals

Monterey County Animal Services: Salinas, CA 23 animals

Peace of Mind Dog Rescue: Pacific Grove, CA 67 animals

The SPCA for Monterey County: Monterey, CA 74 animals

Thulani Senior German Shephard Rescue: San Juan Bautista, CA 9 animals

THE FOLLOWING PETS WERE DISPLAYED ON THEIR WEBSITE AS OF JANUARY 5, 2018



This CAT - ID#A104413

I am a cream tabby Domestic Shorthair
The shelter staff think I am about 1 year old.
I have been at the shelter since Jan 23, 2018
This information is less than 1 hour old.



This DOG - ID#A104445

I am a male, black and tan Chihuahua - Smooth Coated
The shelter staff think I am about 1 year old.
I have been at the shelter since Jan 25, 2018
This information is less than 1 hour old.

School Boards Make a **Difference**



IMPROVING EDUCATION: *The Role of Local School Boards*

SUMMARY

The Monterey County Civil Grand Jury's (Jury) investigation was driven by an interest in identifying what can be done to empower school districts and improve student achievement. The purpose is to draw attention to an underappreciated area of the public-school system, which is the critical role School Boards play in shaping their school districts.

The underlying concern is poor education outcomes across grade levels throughout Monterey County. Furthermore, it is evident that high graduation rates mask the fact that a significant number of graduates are neither qualified for college, nor prepared for a career upon completion of high school. This problem requires full public attention. It also necessitates realistic strategies for raising standards and strengthening governance to improve district and county-wide outcomes.

The good news is that we *can* do better. Student achievement can be raised; and, there are many points of intervention. The opportunity and challenge relate to the decentralized public education system and its emphasis on local control. The State of California establishes guidelines and provides districts with the flexibility to plan and budget based on district priorities. The Monterey County Office of Education (MCOE) is a source of support, services, and information on best practices for strengthening school governance and improving student outcomes. Aside from budget oversight, however, MCOE cannot dictate how the 24 separate school districts in

Monterey County are run. Elected local school boards govern their individual school districts and are ultimately responsible for student achievement and district performance.

Local control means communities have the power to make positive change in their schools. But, this requires proactive effort to ensure the fragmented, decentralized public education system works. In other words, each “player” must not only do its part within its limited authority, but also help strengthen the overall educational system. Central to this is understanding the roles of the MCOE, school boards, and the public, and how they interact and support one another. Effective local control requires well-informed public involvement, skilled school board leadership, and active MCOE support directed at creating a culture of effective school board governance. The public needs clear information on the role good governance plays in raising student achievement. It is not enough to passively provide the tools for effective leadership; the County and school boards need to actively promote a culture of good leadership.

This report focuses on empowering and linking the roles of the public, school boards, and MCOE to produce better educational outcomes by establishing higher expectations, concrete goals, and clear communication about student achievement.

GLOSSARY

CSBA - California State School Board Association

CCI - College/Career Indicator

CDE - California Department of Education

CPS - Center for Public Schools

DOE - Federal Department of Education

LCAP - Local Control and Accountability Plan

LCFF - Local Control Funding Formula

MCOE - Monterey County Office of Education

MCSBA - Monterey County School Board Association

NSBA - National School Board Association

SMCJUHS - South Monterey County Joint Unified High School District

BACKGROUND

The purpose of this investigation is to draw attention to the critical role school boards play in shaping their school districts. The impetus for this investigation began with general concern over low student achievement followed by recognition of the challenge that the County's 24 separate school districts present for targeting interventions to improve educational outcomes. This is a problem that deserves attention because education is central to both individual prosperity and the vitality of Monterey County.

There is plenty of evidence that student achievement can be raised and that the public does not have to accept poor outcomes as destiny. The structure of the public education system does, however, present specific challenges for elevating outcomes county-wide. These challenges also suggest areas that can be focused on to strengthen public education in the county. This report centers on local school boards because they influence and control the effectiveness of their school districts.

The history of public education explains both the goals and structure of the public education system. Public education has a moral and ethical component tied to democratic values and principles of equity. As such, the public education system in the U.S. is designed to promote both local control and universal access. This results in a complex public education system that is decentralized, fragmented, and bureaucratic. Moreover, the underlying intent to promote broad, equitable access presents additional challenges given disparities in resources and needs across diverse communities. Thus, while school districts have the ultimate authority, they also have to accommodate broad access within the confines of limited resources.

Improving education outcomes depends on identifying realistic targets for change. Attitudes about what it takes to produce successful schools and who to hold responsible for poor student achievement have changed over time. Not long ago, unequal outcomes were considered destiny for groups of students of various racial, immigrant and/or socio-economic backgrounds. The belief was that some students were inherently disadvantaged and that unequal outcomes were to be expected. Documented success stories of schools that performed beyond expectations against all odds replaced this perspective with the idea that the real enemy of public education is low expectations. This shift acknowledges that all students can learn if teachers and staff set high expectations and high standards for achievement. This perspective represents a more positive aspiration, but it has also put an unreasonable burden on teachers and principals to be accountable for many concrete, system-wide social problems that are beyond their control.

Today a more balanced view prevails—one that seeks to raise performance by facing district-specific challenges. The reality is that there are many stakeholders and socio-economic factors

that impact public education. Thus, more and more, the role leadership and school governance play are seen as central for supporting what happens in the classroom.¹

The structure of the public education system, county education outcomes, and lessons gleaned from the experience of local districts and education advocates form the basis for this investigation into what can be done as a community to improve student achievement.

APPROACH

To understand the state of education K-12 in Monterey County, the Jury reviewed education outcomes, structure of the public education system, and factors that contribute to student success. The Jury investigated the role of the elected officials in school governance, the MCOE in supporting the success of school districts, the public in choosing effective school leaders, and reporting accessible and clear information to the public. Our investigative methodology involved the following:

- Interviews of elected officials, a district superintendent, school board members, nonprofit executives, teachers, and administrators
- Reviews of State, County and district level data and statistics with respect to educational outcomes, which included the 2016 and 2017 Monterey County Education Reports
- Examining survey findings from *United Way's* “Impact Monterey” and *Bright Futures for Monterey County* with respect to citizen concerns and educational aspirations
- Reviewing *Bright Futures for Monterey County* –a collaborative partnership to organize, leverage local efforts, and measure progress toward key educational goals
- Reviewing the roles and responsibilities of: The Federal Department of Education (DOE), The California State Department of Education (CDE), The Monterey County Office of Education (MCOE), and the county and district school boards
- Examining how information was presented and reported on the websites of the MCOE and each of the 24 Monterey County school districts
- Researching the history, purpose and structure of the United States public education system

¹ Education Writers Special Report. Effective Superintendents, Effective Boards of Education. The Wallace Foundation. <http://www.wallacefoundation.org/knowledge-center/Documents/Effective-Superintendents-Effective-Boards-Finding-the-Right-Fit.pdf>

- Reviewing the CDE Accountability Model and School Dashboard
- Reviewing the school board training sessions offered by the MCOE, California School Board Association (CSBA), and Monterey County School Board Association (MCSBA)
- Researching local issues and concerns presented in newspaper articles
- Researching the National School Board Association (NSBA) and the Center for Public Schools (CPS) best practices for effective school board governance
- Attending the MCOE’s biennial Educational Summit on board governance
- Attending “Bright Spots” conference sponsored by Bright Futures to present highlights and progress with respect to seven county-wide educational goals
- Examining the history and current state of South Monterey County Joint Unified High School District (SMCJUHS) to understand the role and importance of governance to school district effectiveness and student achievement

DISCUSSION

The Jury’s focus is on practical ways the County can strengthen leadership and governance in order to improve school district performance and raise student achievement. This is an important goal because education is central both to individual prosperity and the vitality of our county. Investment in public education contributes to the health and stability of individuals and families, and positively impacts the economy, tax revenue, public health, public safety and decreases social service expenditures.²

There are well-established best practices promoted by associations, such as the Center for Public Schools (CPS) and National School Board Association (NSBA). These best practices provide school boards with proactive measures and prescribed tools for effective governance. The structure of public education suggests specific areas of responsibility for the MCOE and local school boards, particularly with respect to providing clear and useful public information.

Strong board governance produces better outcomes, exhibits competency and resilience in navigating inevitable challenges, by using strategies to prevent avoidable, often costly, mistakes. The example of SMCJUHS illustrates the consequences of dysfunctional governance and provides practical lessons about the strategies and benefits of effective governance.

² Mitra, D. (2010). The social and economic benefits of public education (Doctoral dissertation, Pennsylvania State University). Retrieved from https://www.elc-pa.org/wp-content/uploads/2011/06/BestInvestment_Full_Report_6.27.11.pdf

The State of Education in Monterey County

The current state of education in our community reveals persistently poor educational outcomes throughout our county. While the overall graduation rate is 85.5%, a mere 21.4% of Monterey County students successfully complete the education pipeline, which begins with kindergarten and culminates in either entering college or launching a career.³ Many of our students fail to meet critical milestones by the third grade that ultimately determine their ability to achieve and sustain ongoing educational successes. This is evident in overall Math and English proficiency levels that are well below averages for the State of California, which is currently being sued over literacy rates.⁴ According to 2017 data, student achievement in the County ranked significantly lower in comparison to the state. Even more problematic, the state mandated “dashboard” has begun to reveal that high graduation rates conceal the fact that a very low percentage of graduates are prepared for college or to begin a career or trade.⁵ According to the CDE dashboard and the 2017 Monterey County Education Report:

- County students meeting or exceeding standards in Math is only 25% compared to 38% of students statewide.
- County students meeting or exceeding standards in English is only 36% compared to 49% of students statewide.
- Reading with proficiency by 3rd grade is a determinate of ongoing educational success—through 3rd grade you learn to read, afterwards you read to learn. In Monterey County, only 30% of 3rd graders meet or exceed reading standards. This also means that 70% of 3rd graders *do not* meet basic reading expectations, which is the basis for ongoing academic success.
- While the percentage of students meeting or exceeding math and reading proficiency is low across the board, even larger achievement gaps exist across subgroups of students.
- Monterey County’s 2017 Education Report to the community states an 85.5% graduation rate for all students. Graduation rates for individual high schools in the county range from 78-97%. This statistic does not reflect student readiness for college or careers.
- The 2017 California Dashboard provides the college/career indicator (CCI) that measures the percentage of students who are likely ready for college or career after graduation. In

3 Bright Futures. A Glimpse at Our Community: Based on local trends, it is estimated that 1,500 out of 7000 students that entered kindergarten in 2014 will complete a post high-school program
<https://brightfuturesmc.org/en/challenge/>

4 Hauser, C. (December 6, 2017). Too Many Children Can’t Read in California, Lawsuit Claims. New York Times.
<https://www.nytimes.com/2017/12/06/us/california-literacy-lawsuit.html>

5 California Department of Education Accountability Model & School Dashboard provides district by district statistics on outcomes <https://www.cde.ca.gov/ta/ac/cm/>

Monterey County, the CCI for individual high schools range from 9% to 78% and in every case is significantly lower than reported graduation rates.

- The discrepancy between high graduation rates and college/career readiness explains County survey results, which found that while 90% of students surveyed want to go to college *and* believe this is an option for them, less than one third (32%) of high school graduates have completed all the requirements needed to apply to a University of California or California State University school by graduation.⁶

Public Education System and the Role of Local School Boards

The structure of public education is meant to stress equity, access, and local control. The state sets education law and policy, while county Offices of Education provide support and financial oversight of school districts. It is local school boards, however, who govern their school districts and are ultimately responsible for student achievement and district performance. This is a frustration for education advocates who want to improve county-wide outcomes because the 24 separate and independent school districts (see Appendix A) make it difficult to target interventions to raise student achievement.

There are several levels of government, and elected officials, that impact school governance. Each has its own role, responsibilities, and accountability with respect to legal compliance and educational outcomes. The California Department of Education (CDE) provides districts with the flexibility to plan and budget based on district priorities. The CDE requires local accountability in the development of budgets (LCFF)⁷ and educational priorities (LCAP)⁸ for counties and districts. The CDE has launched an Accountability Model and School Dashboard to monitor and report district outcomes based on 10 state and local indicators (see Appendix B). The purpose is to identify educational disparities and guide local decision-making planning for improving outcomes.

The MCOE is run by an elected governing board and an elected superintendent. It calls school board elections, examines and approves district budgets, and provides support services for districts, including professional development for teachers, administrators, and school board members. MCOE also administers supplemental educational programming and provides training

⁶ Impact Monterey County Community Assessment: Adult Experiences and Aspirations. (May, 2017) Institute for Community Collaborative Studies. California State University of Monterey Bay, pg. 22
<http://www.impactmontereycounty.org/sites/default/files/IMPACT%20MONTEREY%20COUNTY-ADULT%20ASPIRATIONS%20SURVEY%20REPORT-May%2029%202015.pdf>

⁷ LCAFF Local Control Funding Formula

⁸ LCAP Local Control and Accountability Plan

to support districts. Aside from establishing legal parameters and providing support, neither the state nor county can dictate how individual school districts are run.

School boards are charged with a great deal of responsibility in the public education system. Most school board members receive little or no compensation; some receive benefits, such as health insurance. The work of school boards is challenging and highly impactful on school districts. It is critical that school boards get support to ensure successful district leadership.

School boards are elected and, in turn, appoint and evaluate the district superintendent. They establish the district budget, curriculum, policies, and standards for achievement. They adopt collective bargaining agreements and oversee facility issues. School boards must adhere to state law while determining district priorities and strategic long-term goals regarding finances, academics, culture and equity. Ultimately, local school boards are the champions of their schools; they are the community's education watchdog. Their most important responsibility is to work with the community to raise student achievement.⁹

School board members are expected to be accessible and accountable to the community, serving as its education watchdog. Because they are elected, the presumption is that they reflect their community's beliefs and values, are responsive to the needs of the community, and can be held accountable for producing good outcomes. If a school board does not produce results, then voters have the right to replace them with a board that can.

- The key work of school boards is ensuring a high level of student achievement. Effective school boards are those that make student achievement their primary focus.
- Candidates for school boards need not have prior experience in education or board governance.
- The legal requirements for school board candidates are that they:
 - be a registered voter
 - be a resident of the district in which they are running
 - have a high school diploma or a certificate of high school equivalency
 - have not been convicted of a felony
 - are not a current employee of the district or related to an employee in that district

9 National School Board Association <http://www.nsba.org/ABOUT-US/FREQUENTLY-ASKED-QUESTIONS>

- School board members come from many different backgrounds. Prior to serving, they may have limited or no experience in governance, education methodologies, laws that apply to education, and/or how their district operates financially and administratively.

Local School Board Best Practices

The effectiveness of district School Boards directly shapes and impacts what happens in the classroom—positively or negatively. There is a great deal of variability in the performance of school boards and, by extension, in the performance of school districts. Training and best practices are available so school boards can stay current and new members can prepare to be education leaders. School boards can equip themselves with the tools, and a roadmap, to become effective governing boards.

Best practices are a guide to executing critical duties while including, and communicating with, all district stakeholders. Most importantly, they lay out a proactive approach to governing and preventing common pitfalls of dysfunctional leadership. There are well-established best practices that can be adopted by all school boards. The NSBA and the Center for Public Schools (CPS) have a framework for building effective school boards based on core skills surrounding vision, policy, accountability, community leadership and relationships. Eight common characteristics of effective school boards are that they:

- Commit to a vision of high expectations for student achievement
- Hold shared strong beliefs and values about what is possible for students and their ability to learn
- Are accountability driven, spending less time on operational issues and more time focused on policies to improve student achievement
- Have a collaborative relationship with staff and community and establish a strong communications structure to inform and engage stakeholders in achieving district goals
- Are data savvy and embrace and monitor data, even when the information is negative, and use it to drive continuous improvement
- Align and sustain resources, such as professional development, to meet district goals, even in the midst of budget challenges
- Lead as a united team with the superintendent, each from their respective roles, with strong collaboration and trust
- Take part in team development and training, sometimes with their superintendents, to build shared knowledge, values and commitments for their improvement efforts

Effective local school board leadership is the result of training, good governance practices, and an informed electorate. Whether or not they have experience, all school board members should receive regular training updates on school board governance, school budgets and financial management, state law, education policy and current education practices. Best practices are

important governing tools for establishing goals, accountability for results, effective working relationships, formal and informal communication, and regular evaluation of the board and district outcomes. Finally, clear information and communication are vital to the effectiveness of local control.

An informed and an engaged public is key if school boards are to be held accountable and responsive to their communities. This means the public must be knowledgeable about the role of school boards and how their school board is performing. To this end, the public needs regular and clear information about school board goals, school district outcomes, and the commitments of board members and candidates. There are many informal and formal ways by which school boards can communicate information. They can post information on school websites, talk to the media, hold focus groups and town halls, and present annual “state of the district” reports at city council or other public forums. In the end, school boards are responsible for communicating with stakeholders and providing clear information about district goals, board performance and student achievement.

The MCOE cannot compel school boards to engage in best practices or undergo training. The MCOE or the CDE can only step-in and compel action when districts are in distress. The tendency is to maintain appropriate boundaries and respect local control. Thus, the County is reluctant to promote best practices. Because school boards are independent, there is no guarantee they will voluntarily adopt best practices. As a result, there is no common standard applied to board governance across districts within the County. Likewise, there is no common standard guiding communications and providing public information. Therefore, the public has no consistent way of knowing what training school board members receive or how well their school boards are performing.

A commitment to training and best practices in no way interferes with school board independence. Rather, training and best practices equip school boards with leadership skills and tools needed to carry out important district functions. The MCOE and school districts can actively promote information about the role of school boards and school board best practices for school districts, the general public, and potential school board candidates. They can also provide access to clear information by which the public can assess performance of schools and school boards.

A strong commitment to consistent governance practices and public information is needed for several reasons:

- There is no one jurisdiction that can dictate how school boards operate
- All districts depend on knowledgeable, effective leadership to set and meet goals. When school boards and board members engage in training, they are better able to function as

an effective governing body, set high expectations for student achievement, and foster positive environments for administrators and teachers.

- MCOE does not offer informational sessions for potential candidates to learn about the role and responsibilities of elected school board members prior to running for office.
- The MCOE and most school district websites are not user-friendly. There is very little clear, easy to understand public information by which citizens can base informed decisions about school board candidates and/or interpret the effects of school board policies on their school districts.
- Only a school board can commit itself to a culture of good governance by including training requirements in its bylaws, adopting best practices, and performing self-evaluations. Evaluation tools are available to assess school board performance, such as the CSBA self-evaluation tool for school boards.
- There is an extensive array of training options available for school board members. Many of these training options are free or offered at low cost. For example, MCOE and the MCSBA offer regular training sessions throughout the year in the areas of board governance, legal compliance, and educational methodologies. MCOE also raises funds to offer a biennial Summit to try to encourage and increase school board involvement in training. The CSBA offers a Masters of Governance certification program. Governance training is also available from the California Collaborative for Educational Excellence and legal firms. School boards can also arrange for their own training sessions.
- School boards choose the training topics made available to them via the MCOE. Every school board appoints a representative to the MCSBA. These MCSBA representatives then determine training sessions based on the needs of their individual school boards and districts. Training sessions include topical areas, such as school board governance, college readiness, and compliance with state law with respect to LCAP and LCFF.
- MCOE is considering offering the Masters of Governance training in the County. This high-level governance certification normally requires traveling to a CSBA site outside the county. Making this possible in our county requires a minimum attendance commitment on the part of school boards.
- Less than half of the districts' school boards send members to MCSBA training sessions offered by the MCOE. Some district school boards do not send any.
- MCOE does not provide information to the public on districts that do and/or do not pursue training, certification, and self-evaluation. Most school boards do not provide this information on their district websites.

- Most school boards do not present annual “state of the district” reports on district outcomes to the public at city council meetings or other public forums.

A Case Study on the Importance of School Board Governance

The experience of SMCJUHSD illustrates both the costs and consequences of dysfunctional board governance and provides practical lessons about the strategies and benefits of effective governance. The district implemented good governance practices only after it suffered years of dysfunction and was taken over by the state. By adopting new practices and creating a culture of good governance, the district has been able to execute a successful turn-around. This shows that strong leadership and governance practices do work. It also shows us that the consequences of a dysfunctional school district go beyond financial costs; student education is adversely impacted, as are the lives of many families, sometimes for several years. The lesson for all districts, the MCOE and the public is that the enormous costs of dysfunction can be prevented or, at the very least, mitigated by proactively engaging in good governance practices.

- The costs and consequences of ineffective or dysfunctional governance were felt throughout the SMCJUHSD:
 - The King City HS district was saddled with high debt (\$14 million), which led to it being taken over by the state and a loss of local control
 - State Trustees were put in charge of hiring, firing, negotiating contracts, and making decisions regarding curriculum which cost the district an additional \$12 million to sustain the district and pay for a state administrator
 - During this time, morale was extremely low and turnover in staff, teachers, administrators and school board members was high
 - During the long rebuilding and recovery period between 2009 – 2016, the school board lost all autonomy, ceding local control to the state administrator
 - Approximately 1000 students per year were affected during school years 2009 - 13. Student achievement suffered due to increased class sizes, fewer course options and fewer extracurricular activities. Some parents transferred their children to other school districts, disrupting continuity and separating life-long friends.
 - The school came extremely close to losing its accreditation, which would have meant that graduating students would not have been eligible for state college admission

- SMCJUHSD reorganized the school board with new members committed to mandatory training in governance and best practices by all school board members. They have raised attendance and student achievement. They are also on track to pay back their loans in 9 years, rather than the typical 20 years it takes for school districts in receivership. To achieve these results, the board adopted the following measures:
 - The Board of Trustees passed a by-law requiring CSBA Masters of Governance Training for all current and new board members on December 4, 2015
 - Adopted best governing practices
 - Partnered with CSBA for ongoing training and professional development
 - Employed the CSBA template for district policies and committed to update and revise policies every 3 months to stay current with best practices, state law, and district needs.
 - Board members committed to routinely educate themselves on protocols and procedures.
 - Board members committed to regularly review and revise standard operating procedures.
 - Hired a superintendent who provides leadership to the district with an eye to what is best for the students, including a diligent communication style with all stakeholders
 - Clarified authority and leadership roles according to strategic, planning and operational decision-making
 - The Superintendent committed to reporting district results to the city council annually
 - Board members committed to provide clear public information about district goals and outcomes on the district website.

For more information about the SMCJUHSD case study, see Appendix C.

In sum, school boards are critical to student and district performance. School board members shoulder a great deal of responsibility and need adequate support to be effective leaders. Effective local control requires well-informed public involvement, skilled school board leadership, and active MCOE support directed at creating a culture of effective school board governance. The public needs clear information on the role of good governance in raising student

achievement. It is not enough to passively provide the tools for effective leadership; the MCOE and school boards need to actively promote a culture of good leadership.

FACTS

- (1) There are 24 K-12 independent school boards in the county. There is no one jurisdiction that can dictate how school boards operate.
- (2) Candidates for school boards are not required to have any prior experience in education or board governance.
- (3) The Monterey County Office of Education does not offer formal informational sessions or programs to educate potential school board candidates about the role and responsibilities of elected school board members prior to running for office. Potential candidates can approach the Monterey County Office of Education individually and request information.
- (4) There is no legal requirement for school board members to attend trainings and the Monterey County Office of Education cannot require district school boards or individual school board members to engage in training. Similarly, although it is considered best practice, there is no legal requirement for school boards to self-evaluate their performance.
- (5) The key work of School Boards is ensuring a high level of student achievement. Effective school boards are those that make student achievement their primary focus.¹⁰
- (6) School Boards can commit to training by including training requirements in their bylaws.
- (7) There are well-established best practices for school boards.
- (8) Evaluation tools are available to assess school board performance, such as the California School Board Association self-evaluation tool for school boards.
- (9) The Monterey County Office of Education does not provide information to the public on districts that do and/or do not pursue training, certification, and self-evaluation.

FINDINGS

- F1. Student achievement suffers when school districts are unproductive or dysfunctional. It can be very costly and take years to address problems if the Monterey County Office of

¹⁰ What do School Boards do? The National School Board Association. <http://www.nsba.org/about-us/what-school-boards-do%20>

Education and/or California Department of Education have to step in to support or save a school district.

- F2. There are proactive steps that can be taken by the Monterey County Office of Education in collaboration with school boards to prevent many pitfalls of poor governance.
- F3. The Monterey County Office of Education and local school boards can do more to promote effective local governance that is accountable to the community and produces better district outcomes.
- F4. Promoting effective local governance requires better public information, communication, and a strong commitment to board development.
- F5. Although each school district has individual priorities, school boards can each make a commitment to adhering to best practices, training, and ongoing professional development when it comes to school board governance.
- F6. While the Monterey County Office of Education cannot dictate how school boards govern, they can provide stronger leadership in promoting a culture of effective school board governance.
- F7. Information posted on Monterey County Office of Education and school district websites is insufficient and not user-friendly. It does not provide the public with adequate information about what school boards do, how to evaluate school board performance, or how assess school district outcomes.
- F8. School boards can do better in fulfilling their responsibility to communicate with school district stakeholders.

RECOMMENDATIONS

- R1. School Boards should adopt a policy to commit to all National School Board Association best practices.
- R2. School Boards should adopt a bylaw to make initial training and ongoing workshops mandatory.
- R3. School Boards along with their superintendent and teacher union representatives should make annual public presentations on school district goals and student achievement.
- R4. School Boards should provide clear, concise, and easy to find communications on their district's goals and outcomes on their district's website.
- R5. School Boards should provide information on their district's website about the role and responsibilities of school board members to educate parents, the public and potential school board candidates.

- R6. School Boards should provide access to informational sessions to educate potential school board candidates on the duties and commitment associated with serving on a local school board.
- R7. The Monterey County Office of Education should provide information sessions regarding the depth and breadth of school board service to people running for school board positions.
- R8. The Monterey County Office of Education and the Monterey County School Board Association should actively promote and provide the California School Board Association Masters of Governance training in Monterey County.
- R9. The Monterey County Office of Education and the Monterey County School Board Association should adopt options for school board training to increase attendance and engagement in school board training. For example, offer training throughout the county, webinars, or onsite training.
- R10. The Monterey County Office of Education should revamp its website in an effort to present useable information that is relevant for a public audience.
- R11. The Monterey County Office of Education and the Monterey County School Board Association should provide information about school board best practices on their website
- R12. The Monterey County Office of Education and the Monterey County School Board Association should provide information on their website about the role and responsibilities of school board members to educate parents, the public and potential school board candidates.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following individuals:

- Monterey County Superintendent of Schools F1-8; R7-12

From the following governing bodies:

- Monterey County Board of Education F1-8; R1-6
- Each School Board Listed below F1-8; R1-6
- Alisal Union School District
- Big Sur Unified School District

- Bradley Union School District
- Carmel Unified School District
- Chualar Union School District
- Gonzales Unified School District
- Graves School District
- Greenfield Union School District
- King City Union School District
- Lagunita School District
- Mission Union School District
- Monterey Peninsula Unified School District
- North Monterey County Unified School District
- Pacific Grove Unified School District
- Salinas City Elementary School District
- Salinas Union High School District
- San Antonio Union School District
- San Ardo Union School District
- San Lucas Union School District
- Santa Rita Union School District
- Soledad Unified School District
- South Monterey Co. Joint Union High School District
- Spreckels Union School District
- Washington Union School District

INVITED RESPONSES

Type titles of individuals here and list the findings and recommendations (by number) that each individual is invited to respond to.

Monterey County School Board Association R 9, 11, 12

Director, Bright Futures for Monterey County F 1-8, R 1- 12

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

24 School Districts in Monterey County

Alisal Union School District
Big Sur Unified School District
Bradley Union School District
Carmel Unified School District
Chualar Union School District
Gonzales Unified School District
Graves School District
Greenfield Union School District
King City Union School District
Lagunita School District
Mission Union School District
Monterey Peninsula Unified School District
North Monterey County Unified School District
Pacific Grove Unified School District
Salinas City Elementary School District
Salinas Union High School District
San Antonio Union School District
San Ardo Union School District
San Lucas Union School District
Santa Rita Union School District
Soledad Unified School District
South Monterey Co. Joint Union High School District
Spreckels Union School District
Washington Union School District

APPENDIX B

California Department of Education Local Control Funding Formula priorities

- Priority 1: Basic Services
- Priority 2: Implementation of State Standards
- Priority 3: Parent Involvement
- Priority 4: Student Achievement
- Priority 5: Student Engagement
- Priority 6: School Climate
- Priority 7: Course Access
- Priority 8: Student Outcomes
- Priority 9: Expelled Youth
- Priority 10: Foster Youth

APPENDIX C

Case Study: South Monterey County Joint Unified High School District (additional information)

By 2009, King City High School found itself in a bind. Poor leadership on the part of the dysfunctional school board and administrative team over several years (starting with the 2000-2001 school year) led to a weak negotiation with the King City Joint Union High School Teachers Association (now, SMCJUHSD Teachers Association). This ended up causing a large debt burden to the district, and would have bankrupted the district by 2009. This burden was alleviated when the state put the district in receivership and took control. It has taken 9 years to get the school district back on track. The cost to the district went beyond the financial, as community confidence in their school declined as well. Student achievement went down, teachers left, parents took their children out of the school, and the school board disintegrated. Over time, many positive changes were made – changes which turned this failing district into a successful one, changes which are applicable to other districts desiring to change a culture of low expectations to high achievement.

Lessons learned from the study of the SMCJUHSD included the understanding that a positive turnaround in student achievement - as measured by graduation rates and attendance - came as a result of reorganizing the school board with new members committed to mandatory training in governance and best practices. Subsequent hiring of a superintendent who provides leadership to the district with an eye to what is best for the students, including a diligent communication style with all stakeholders, has led to many improvements. They are on track to pay back their loans in 9 years, rather than the typical 20 years it takes for school districts, becoming financially viable and regaining local control in 2016.

When expectations of student achievement are raised, students can do better. Keeping the best interests of students in mind is a guiding principle of a successful school district.

Changes in the way the school board operates have been set in place as a result of this process:

- The board passed a by-law requiring CSBA Masters of Governance training as a condition of board membership and became partners with the CSBA for ongoing training and policy mentoring – cost: \$1500 per board member, paid for by the school district
- The board now uses the CSBA template for policies, which is revised every 3 months, to insure that they are in compliance with state mandates, best practices, and newly passed state laws
- Board members routinely get educated in protocols and procedures; the district covers the cost of any attendance and training expense
- Standard Operating Procedures are being updated and finalized

- Best practices for governing were installed:
 - The Governance team includes School Board members (not involved in daily operations), the Superintendent and the Cabinet. They set policy and strategic long term goals (financial, academic, cultural, equity)
 - The Cabinet leadership team includes principals, assistant principals and department chairs. They are responsible for planning and scheduling changes
 - The Operational team includes principals and teachers. They are responsible for implementing change at the school site and in the classroom
- Teachers' salaries were reduced by the state administrator

New strategies were employed to improve student achievement:

- The appropriate level of staffing was re-established, class size was cut and AP classes were instituted, along with career pathway courses
- Instruction is being modified based on the state's accountability model – from “drill & kill” learning from books, to project based problem solving
- They've started a Newcomer class – for those students who start school speaking another language. Students stay together in content classes with special teachers who have earned specific professional development and credentials. This effort includes the feeder elementary and middle schools.
- New teachers were hired:
 - 80-85% new hires are recent grads with teaching English as a Second Language (ESL) credentials (all colleges are now putting ESL into their teaching credential instruction)
- The district provides professional development for principals and teachers to help get students thinking differently: turning from the 3 R's – reading, writing and 'rithmetic – to the 5 C's (communication, creativity, critical thinking, collaboration, and community)
- SMCJUHSD employs two full-time counselors (with plans to hire two more) and utilizes the services of CSUMB and UCSC interns to help high school students navigate their way through high school into college and/or career readiness

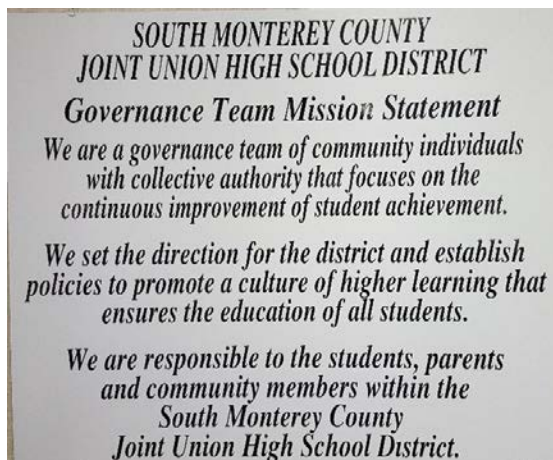
Outcomes tracked with regard to student achievement since being under receivership:

- Reduced class size down to 29:1 (was at 36:1)

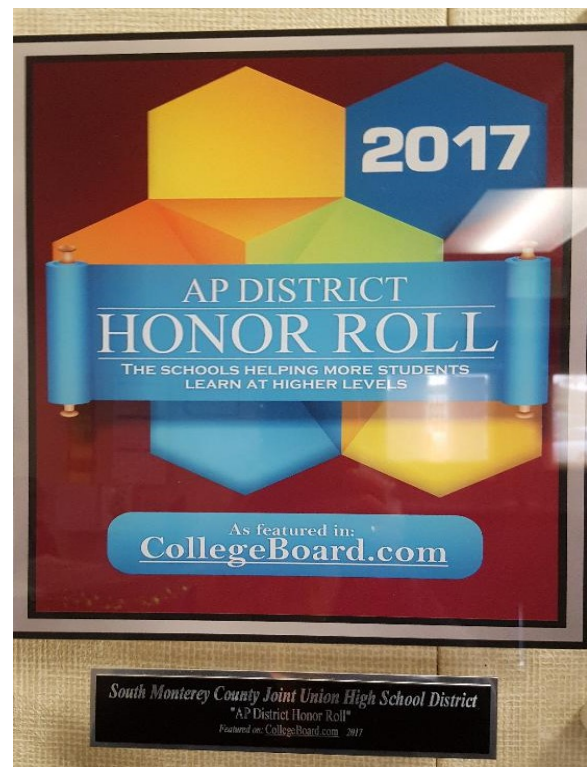
- Enrichment programs added back into the curriculum (15-18 AP classes)
- Career and college readiness programs are building curricular pathways throughout high school
- Community support for the school is evidenced by its continuing strong support for Future Farmers of America (FFA) and the sports programs

Higher expectations by the school board, district administration, and school site staff are reaping benefits:

- State graduation requirements are considered a minimum standard to be met
- Taking the required college entry classes for admission to all of the CSU/UC campuses (known as A-G classes) while not mandatory, are a goal for all students
- Advanced Placement (AP) courses provide the rigor of a college program. The district has been recognized for the number of these courses that are now available to students
- Graduation rates and attendance (95%) are all up



On the board room wall of SMCJUHSD (mission statement)



On the lobby wall of SMCJUHSD (AP honor roll photo)

WHO'S IN CHARGE?

Stepping up on Homelessness: The need for strategic leadership and comprehensive planning



SUMMARY

The impetus for this investigation is mounting public concern about homelessness despite existing efforts to address problems affecting our county's homeless residents. Upon closer examination, it appears homelessness is an even bigger problem in our county than the biennial homeless census suggests. However, there is no leadership body with political power and authority to change the course of homelessness and housing insecurity in our county.

Homelessness and housing insecurity is a serious and persistent problem affecting a broad swath of Monterey County residents. Homelessness is a complex social problem that is greatly exacerbated by the overall housing shortage, high cost of housing, and inadequate stock of affordable housing in this area. The faces of homelessness are the men, women and children in our community who live in a constant state of uncertainty over basic shelter—they are families, unaccompanied children, students, seniors, veterans, full-time workers, victims of domestic violence, the mentally ill or disabled, and those who have suffered a financial setback from a job loss, health crisis or divorce. Once one falls into homelessness, it's difficult to get back on track. How we respond to and address this problem has very real moral, economic, and quality of life implications for all of us both individually and as a community.

Monterey County has many people and organizations dedicated to serving the homeless and has established a Continuum of Care framework to coordinate housing services. The County does not, however, have a publicly accountable governing mechanism in place to secure strategic

leadership, cross-jurisdiction collaboration and the comprehensive planning needed to address homelessness. This is relevant because meaningfully reducing—and ideally ending—homelessness calls for a high-level of accountability and coordinated effort. The current network of services and new projects are a critical foundation. Nevertheless, change requires a broader level of public commitment in several areas, such as increased political cooperation between county and city officials, focused policy, and a dedicated budget.

The reality is that our community pays for the problems associated with homelessness whether we choose to manage these problems reactively or address them strategically. Our county cannot keep pace with the current level of need and, as housing insecurity worsens, the level of homelessness will not improve, and likely expand, without concerted effort to address housing stocks.

To move beyond managing homelessness, we need an empowered leadership body in order to secure the broad public support and joint county-city commitments necessary to meaningfully address homelessness.

GLOSSARY

CARS Coordinated Assessment and Referral System

CDE California Department of Education

CSAC California State Association of Counties

CHSP Coalition of Homeless Service Providers

CoC Continuum of Care

ESG Emergency Services Grant Funding

HEARTH Homeless Assistance, Rapid Transition to Housing Act (2009)

HACM Housing Authority County of Monterey

HCV Housing Choice Vouchers (formerly section 8 vouchers)

HDC The Monterey County Housing Authority Development Company

HMIS Homeless Management Information System

HUD U.S. Department of Housing and Urban Development

IHC U.S. Interagency Council on Homelessness

LCC The League of California Cities

MBEP The Monterey Bay Economic Partnership

MCOE Monterey County Office of Education

NIMBY Not in My Backyard

UI Urban Initiatives

BACKGROUND

The Problem of Homelessness

A great deal of evidence exists about homelessness in terms of its causes, the extent of the problem, and strategies to address it. There is a general consensus that it is a problem we can, in theory, address with the right mix of policy, planning and supportive services. Yet, public frustration is a common theme throughout California in which cities and counties grapple with persistent homelessness even when officials set lofty goals and dedicate significant resources to homeless projects.¹ Notably, there are also common barriers to achieving meaningful progress including entrenched NIMBYism², misconceptions about the homeless, and diffused authority. These barriers seem to suggest a need for active leadership, coordinated organization, and marshalling political will.

The problem of homelessness is not unique to Monterey County. Homelessness affects all 58 counties in our state.³ In fact, the State of California accounts for more than 25% of the national homeless population even though our responses to the problem are similar to those undertaken by other states. This is directly linked to the high cost of housing and severe housing shortages throughout the state. A striking majority of the homeless in California live unsheltered—in other words, on the street. The cost of housing also means that an ever-increasing number of people live in financially precarious situations, spending more than 50% of their income on housing costs⁴. The stock of affordable rentals is far outpaced by population growth and demand for low

¹ Lopez, S. (January 28, 2018). L.A. homeless crisis grows despite political promises, many speeches and millions of dollars. How do we fix this? *Los Angeles Times*.

² NIMBYism: NIMBY is an acronym for the phrase Not In My Back Yard. NIMBYism refers to public opposition to projects in their neighborhoods, even if they are not opposed generally, due to the perception of how it will impact them personally

³ CSAC Joint Task Force. California State Association of Counties.

⁴ The Joint Center for Housing Studies uses the number of people who pay 30% or more of income on housing as a metric by which to track the problem of housing affordability

wage workers. Even though the state has yet to officially declare it a state-wide crisis, dozens of individual cities and counties have designated homelessness an emergency.⁵

Another problem is the perception of homelessness as being the result of mental illness or bad choices, such as unwillingness to work hard or drug addiction. In truth, there is a growing number of “economically homeless”—those who are driven to overcrowded or unsafe dwellings, cars, or the streets simply because they could not keep pace with the cost of living or were overwhelmed by a serious financial shock. Quite often, people succumb to various mental health, physical ailments, or addictions *after* they have become homeless.

There are many causes of homelessness including poverty, the absence of work opportunities, the lack of affordable housing, mental and/or physical illness, shrinking public services, addiction and domestic violence. However, the biggest contributors are increasing shortages of affordable rental housing and poverty.⁶ Many factors exacerbate the causes of homelessness including downturns in the economy or changes in public policies affecting housing, wealth disparities, and social services. These individual and structural factors are entwined and can lead to cycles of poverty and homelessness.

Solutions to address homelessness are cross-jurisdictional, involve public-private partnerships, and span multiple policy areas including housing, land use, public health, mental health, social services, economic development, and criminal justice. Thus, the federal government both models and encourages collaborative comprehensive responses.

The U.S. Interagency Council on Homelessness (IHC) has shown success in coordinating federal responses to veteran homelessness via partnerships across all levels of government; the goal of the agency is to apply this model to combating homelessness more broadly. To encourage local-level coordination, the U.S. Department of Housing and Urban Development (HUD) structured its homeless assistance funding to be contingent upon community-wide planning and the coordination of programs for individuals and families. As a result, cities and counties are forming partnerships to create strategic plans. In an effort to improve the outcomes of these collaborations, The California State Association of Counties (CSAC) and The League of California Cities (LCC) formed a task force to review how California cities and counties are addressing homelessness in order to identify new & best practices for establishing strategic plans, organizing collaborations, and implementing action plans.

The California legislature passed 15 housing bills in the Fall of 2017 to address the state-wide housing shortage through a variety of measures involving a mix of incentives and penalties. The new laws are intended to help spur affordable housing at the local level by creating new sources

⁵ Medina, J. (December 21, 2017). The State’s Homeless Population Drives National Increase. *The New York Times*.

⁶ National Coalition for the Homelessness <http://www.nationalhomeless.org/factsheets/why.html>

of funding, expediting building projects, tightening mandates on local planning, and fining jurisdictions that don't adequately plan for their share of housing demand.⁷

Homeless Strategy in Monterey County

The County of Monterey and its cities act independently and jointly with respect to various individual homeless shelter and housing projects. Housing requires a great deal of collaboration and shared resources for emergency shelters, transitional housing, rental assistance and permanent housing. The County deploys an array of public programs and nonprofit services and relies on local, state, federal, and nonprofit sources of funding.

Monterey County's primary formal system for addressing homelessness is shaped by HUD's Continuum of Care (CoC) system. The County receives federal funding authorized by the McKinney-Vento Act (1987)⁸ for local housing and supportive services programs. In 1994, the application process changed for this grant, requiring the community to apply for federal funds in one comprehensive application, rather than as individual organizations for each separate program. The County also depends on HUD's State and Federal Emergency Services Grant (ESG) funding.

The Coalition of Homeless Services Providers (CHSP) is a 501(c)3 that was formed to facilitate the CoC and the grant process for the County. CHSP is an independent nonprofit organization that is not part of any county or city government; but it plays an important role in the County's homeless service provision.

In 2009, Congress passed the HEARTH Act to further reinforce community focus on preventative measures and system-wide approaches to homelessness. Federal funding is stipulated upon establishing comprehensive planning that extends beyond receiving the annual federal grant. This required the County to establish a formalized means for ongoing planning by including elements, such as a coordinating organization for service provision, governance body, strategic plan, data collection and management, and an assessment and referral system. The idea is that the County not only coordinate shelter and services, but also link with broader planning and policy efforts, evaluate progress toward goals, and continuously update the strategic plan based on learning what does, and does not, work.

Since 1994, coordination of programs, the federal grant writing process, and compliance with federal requirements have been facilitated by the Coalition of Homeless Services Providers (CHSP), which is a 501(c)3 nonprofit organization. In 2009, the Lead Me Home Leadership

⁷ Brief summary of CA state housing bills <https://www.mercurynews.com/2017/09/14/california-affordable-housing-bills-are-finally-getting-a-vote/>

⁸ History of this legislation <http://www.nationalhomeless.org/publications/facts/McKinney.pdf>

Council (Leadership Council) convened as a working group to create ‘Lead Me Home’—Monterey and San Benito counties’ 10-year strategic plan to end homelessness (Strategic Plan).⁹ The Strategic Plan is intended to serve as the coordinating planning document for addressing homelessness. Depending on the documentation, the plan went into effect in 2011 or 2012, making this year 6 or 7 of the 10-year plan.

Despite the plan’s broad scope and ambitious goals, there were no elected officials seated on the Leadership Council prior to 2017. Progress toward goals has never been measured and the plan has not been updated. The Leadership Council is currently comprised of one county supervisor, four city mayors, executives of nonprofit service providers, county health and social service administrators, the Community Foundation, public safety officials, and homeless representatives. Due to its composition, the council is not compelled by the Brown Act (1953) to open its meetings to public attendance, input and scrutiny. The Leadership Council schedules meetings bimonthly and appears to serve as the governing body for the CoC and the Strategic Plan for ending homelessness.

CHSP is the designated Continuum of Care (CoC) coordinator for the County. The County’s CoC system and federal grant application process is overseen by the CHSP. As such, CHSP also complies with HUD mandates to collect and manage data as well as to integrate services. In addition to the coordinated grant application, CHSP administers the biennial Homeless Census and Survey, the Homelessness Management Information System (HMIS), and the Coordinated Assessment and Referral System (CARS). Data collection is shared with the federal government and used locally to monitor the size and characteristics of the homeless populations. The HMIS database gives service providers a common platform to track individual clients across providers, and CARS tailors housing and services to meet the needs of clients. Since a county CoC is insufficient support for individual municipalities, the City of Salinas has contracted with Urban Initiatives (UI) to similarly develop its own HUD strategies for an overarching municipal homeless and community development plan. The City also assumed responsibility for securing 2017 federal and state Emergency Solutions Grant Funding (ESG) for the County, which had previously been tasked to CHSP. The County needs this funding to contract with nonprofit homeless service providers. In addition, the City has been investing in its own a pipeline of housing and by partnering with the County and MidPen Housing on projects, which include an emergency shelter, permanent supportive shelter, and mixed-use revitalization project.

There are rental assistance programs and public-private partnerships designed to add affordable housing. The Housing Authority of the County of Monterey (HACM) is a public agency that receives federal funding to manage public housing programs. It also provides subsidies via Housing Choice Vouchers (HCV) that help low income families and veterans supplement the cost of rent. To add to our affordable housing stock, the Monterey County Housing Authority

⁹ Although CHSP and LMHLC oversee the CoC for Monterey and San Benito Counties, this report only refers to homeless leadership in Monterey County

Development Company (HDC) is a public benefit corporation that supports the Housing Authority and affordable housing developers. Since high building costs are a barrier to affordable housing construction, the HDC partnered with a company that builds prefabricated modular units to facilitate the Haciendas project in Salinas.

To spur a call-to-action with respect to our housing shortage, local forums, collaboratives, and initiatives are drawing attention to the need for affordable housing in the region and supporting various nonprofit, public and private sector led development projects. For example, broad local concern for low-income, senior, and disabled residents prompted the *Monterey County Housing and Homeless Summit* and *Seaside Housing 101 Forum*. In 2016, The Monterey Bay Economic Partnership (MBEP) launched a housing initiative to form a regional coalition of organizations to promote affordable housing development through advocacy and the establishment of a housing trust.

Local companies have also taken the initiative to invest in housing in order to be able to ensure a local workforce. Tanimura & Antle completed its 100-unit Spreckels housing project that provides low cost rental units for 800 employees. In the fall of 2017, the Nunes Company broke ground on a similar farm labor project in Salinas that is expected to house 600 agricultural employees. Other low-income housing projects underway are the senior housing units in Seaside and the Pebble Beach Company's inclusionary housing project in Pacific Grove.

In sum, homelessness and housing security affect the stability and vitality of our county. Despite the extent of efforts in place or underway, there is concern about the scope and persistence of the problem. The purpose of this study is to draw attention to one area that needs improvement if we are to make headway on homelessness.

APPROACH

The approach the Jury took was to broadly survey public concerns, community-wide problems and organizational challenges with respect to homelessness generally, rather than to focus on one particular program or agency. The investigative methodology for this report involved interviews, examining various collaborative homeless and housing efforts, and reviewing homeless data, research, and media reports. As such, the Jury examined a wide range of local, state, and national homeless-related issues, statistics, policies, and initiatives. In addition, the Jury interviewed local elected officials, public administrators and nonprofit executives. Jury representatives also attended public forums on homelessness and reviewed county and city-level strategies to address homelessness.

DISCUSSION

This report addresses the evidence that homelessness in our county is getting worse and the public perception that nothing is being done in response to the growing problem. Contrary to this perception, we found numerous agencies, partnerships, innovations, and best practices dedicated to homeless solutions. We also found that those committed to ending homelessness express deep frustration by the lack of progress. The most commonly cited reason for the inability to make headway was the lack of political will—particularly the lack of willingness to commit to a joint county-city regional plan. The community has the knowledge base and the framework for addressing homelessness. The community does not, however, have a leadership body that can be held accountable for producing results.

The County has a housing shortage and a growing homeless problem. Housing costs and shortages are a national trend that is more pronounced in Monterey County.¹⁰ The homeless census and survey gives an indication of who the homeless are, as well as the scope of homelessness. Officials caution against claiming an increase in homelessness because numbers may reflect more accurate record-keeping over time. Yet, the official count is based on a specific definition of homelessness that may not capture the extent of homelessness in the County.

There is more than one definition of homelessness, which impacts the number of people included in the homeless count. The Monterey County Homeless Census & Survey is based on a narrow federal definition limited to those living in shelters or places not designed as shelters—such as cars, parks, bus stations, airports, or camps. However, the California Department of Education (CDE) uses a broader definition of homelessness that takes into account students whose families live in motels, doubled-up conditions, “couch-surfing”, or who are waiting for placement in foster care. It is notable that when using a definition that accounts for housing insecurity, the problem of homelessness affects a greater number of Monterey County residents than documented in the homeless census.

- There is a severe shortage of affordable housing in the County, which is defined as rent not exceeding 30% of median household income. Long-standing residential instability was magnified during the 2008 financial crisis and the 2012 dissolution of the Redevelopment Agency, which was an important source of funding for affordable housing.

¹⁰ America’s Affordable Housing Shortage Mapped <https://www.citylab.com/equity/2017/03/americas-affordable-housing-shortage-mapped/518391/>

Murphy, Katy (February 1, 2018). Housing Shortage: New report shows how California cities and counties stack up <https://www.mercurynews.com/2018/02/01/housing-shortage-new-report-shows-how-california-cities-and-counties-stack-up/>

- The 2017 Monterey County Homeless Census & Survey Reported:
 - Monterey County Homeless numbers are the highest they have been in 10 years. Since the 2015 census, the number of homeless has increased 27% and the number of homeless families has increased by 37%
 - Homelessness has risen by 57% in Salinas, 102% in Del Rey Oaks, and 37% in Marina
 - 83% of the homeless were Monterey County residents before they became homeless
 - 21% of the homeless population is chronically homeless. The number is essentially the same as the 2015 survey
 - 25% of the homeless surveyed say they are employed but homeless because they cannot afford rent
 - 49% of the homeless are between 18-40 years old
 - 75% of the homeless live unsheltered, while 25% stay in emergency shelters or transitional housing or safe havens
- Homelessness is more problematic when the definition of homelessness includes those who live in overcrowded temporary situations. According to the 2017 Monterey County Education Report, 8.1% of children enrolled in our public schools, or 6,278 students, are homeless or are living in near homeless conditions. This number of children is almost two and half times the total homeless figure of 2,837 reported by the 2017 homeless census.
- The Monterey County Office of Education (MCOE) only counts homeless students. There is no county-wide total population count of homelessness using this broader definition of homelessness.

Who's in Charge?

The perception that little is being done to address homelessness is fueled, in part, by the scope and complexity of the problem, the diffused network of organizations involved, and the lack of clear authority or markers of progress. It is also driven by visible, impactful, and costly effects of homelessness in our county and other cities and counties throughout the state.

- The County, municipalities, private industry, faith-based and other not-for-profit organizations provide services and housing options such as warming shelters, temporary housing, transitional housing and affordable housing.

- o CHSP is a group of private non-profit and public organizations working together to address the complex issues of homelessness. The mission is to promote interagency coordination for a comprehensive system of housing and services to maximize self-sufficiency of individuals and families.
- o CHSP has been receiving federal grants from Housing and Urban Development (HUD) for 10 or more years. In 2018 the grant amounted to just under \$1.9 million from HUD. This grant money is distributed to 8 agencies for 14 programs providing street outreach, transitional housing, rental assistance programs, permanent supportive housing and homeless planning activities.
- o When it learned CHSP was not applying for 2017 ESG funding, the City of Salinas took over the administration of Federal and State Emergency Solutions Grant Funding from CHSP. The City serves as the administrative entity to secure and distribute State ESG funding for Monterey County, which amounts to \$1,166,582 for over 2 years. Federal ESG amounts to \$670,562 over 4 years.

There are direct, indirect, and hidden public costs associated with homelessness. There is also no consistent budget process by which to identify and account for the full costs of homelessness or to accurately track the resources dedicated to homelessness. Social services, rental assistance, shelters and affordable housing require resources. Some of the hidden costs include unaccounted work hours public employees dedicate to addressing homelessness and the unquantifiable social costs in terms of human dignity or productivity. When adequate resources are not committed to eliminating homelessness, communities also must pay to respond to the consequences of homelessness.

There were several consequential events associated with homelessness in California this past year. For example, San Diego reported 580 cases of hepatitis A associated with an outbreak that began in a homeless encampment in September 1, 2017. San Diego spent \$6.5 million to set up 5 temporary industrial-sized treatment tents for 7 months, which was taken from funds budgeted for the purpose of building permanent housing.¹¹ In December 2017, a homeless encampment in Los Angeles was the source of a fire that was responsible for shutting down Interstate 405, a major freeway, during peak rush-hour traffic, burning 400 acres, destroying 6 houses, and damaging 12 additional homes in the Bel-Air neighborhood.¹² According to Cal Fire, there is an average of 103 wildfires per year caused by illegal open fires, which include homeless warming fires, cooking fires and encampment fires. The number attributed to homeless camps is not officially tracked. Yet, these scenarios represent realistic vulnerabilities for our county as well.

¹¹ Associated Press (December 2, 2017). San Diego Opens Homeless Tents to Fight Hepatitis Outbreak.

¹² Medina, J. (December 12, 2017). Los Angeles Fire Started in Homeless Encampment, Officials Say. *The New York Times*.

Together, the direct, indirect, and hidden costs of homelessness illustrate that while investment in housing and homeless services is costly, it is also costly not to make the investment—both in terms of dollars spent, quality of life, and human dignity.

- The costs of homelessness are hard to pin down because they are embedded in the budgets of numerous agencies, jurisdictions and private organizations. There are also many “hidden” or undocumented costs of homelessness, such as volunteer time, social costs and the work hours of public employees. Resources dedicated to homelessness come from nonprofits, and federal, state, and local governments.
 - Since 2014, the City of Salinas spent over \$5 million on homeless services, including warming shelters, affordable housing projects, and periodic “sweeps”. These expenditures are supported by federal, state, and local revenue as well as private funding.
 - On February 7, 2018 Monterey County became the latest county in the state to declare Hepatitis A outbreak among the homeless population residing within the county.
 - The City of Salinas, allocates \$300,000 per year for cleanups or “sweeps”. Last year, costs ran \$338,000 and are expected to be higher this year due to the Hepatitis A outbreak. The full cost of “sweeps” is not always accounted for in terms of public servants’ time and displacement of the homeless. They are disruptive to the homeless leaving them vulnerable to the elements and to losing their possessions.
 - The public health concerns with the outbreak is the challenge of vaccinating the homeless, the need to vaccinate an array of public service workers, and the potential of spreading to other populations, particularly gay men.
- Several community initiatives demonstrate ongoing public concern about problems related to homelessness and housing insecurity.
 - Housing Options Meaningful to Elders (HOME) is a new collaborative. HOME convened ‘A Call to Action!’ summit on Sept. 15, 2017 in an effort to brainstorm solutions to address the effects of the area’s severe housing shortage on seniors and disabled residents. The goal of the group of nonprofit, government, and private leaders and invited policymakers is to develop an actionable plan toward housing solutions in Monterey, San Benito, and Santa Cruz counties.
 - Monterey County Housing and Homeless Summit and Seaside Housing 101 Forum. In 2016, The Monterey Bay Economic Partnership (MBEP) launched a housing

initiative to form a regional coalition of organizations to promote affordable housing development through advocacy and the establishment of a housing trust.

- o In 2016 the Community Foundation for Monterey commissioned the Fund for Homeless Women report, “Assessment of the Homeless Women on the Monterey Peninsula”¹³, in order to document women’s homelessness causes, needs, and existing challenges, local policy considerations, and to craft recommendations.
- o Several industry leaders have taken it upon themselves to provide dignified housing options for their employees, including the Tanimura & Antle housing facility, the Nunes Company project, and the Pebble Beach Company’s \$8 million project for 24 units of 100% affordable employee housing.

Monterey County struggles with similar barriers faced by other communities trying to make headway in the fight against homelessness. There are common themes expressed by public frustrations within communities that have not been able to alleviate homelessness even when they seem to have “done everything right” with respect to designating revenue, initiating partnerships, and assigning administrative bodies to allocate resources. Two specific impediments to progress are public push-back on individual projects due to NIMBYism and not having a strong enough governing body with “the-buck-stops-here” level of authority. Both these problems relate directly to the comment the Jury heard most often throughout our county, which is that we lack the political will to take the long-view and address homelessness strategically.

Political will is an expression for government’s firm intention, commitment, and ability to carry out policy, particularly if the objectives of that policy are not popular or are difficult to achieve. No individual politician or jurisdiction is inclined to stand alone or undertake more than is required by immediate needs or interests. This is a difficult, but common, problem that gets in the way of responding to complex public problems that involve many jurisdictions and agencies.

- Political will for any kind of change, like addressing homelessness, takes intention and requires:
 - o The inclusion and involvement of all parties who have the power to make or block decisions necessary to meet goals
 - o Agreement about the nature of the problem and its importance

¹³ Homeless Women on the Monterey Peninsula https://www.cfmco.org/wp-content/uploads/2016/10/FHW-2016-Full-Report_FINAL_web.pdf

- o Decision-makers who are committed to the problem and not in conflict with interests of their own agencies or jurisdictions
- o Agreement on a plan and action-steps that need to be taken.¹⁴

Thus, marshalling sufficient political will to change homelessness means a strong governing body is important not only to secure agreements necessary to get things done, but also to allay fears and gain support.

In sum, there is evidence that the problem of homelessness affects a greater number of Monterey County residents than documented in the homeless census. The County has many people and organizations dedicated to serving the homeless and has established a CoC framework to coordinate housing services. However, there is no government, agency or inter-governmental entity that has ultimate authority for the goals identified in Monterey County's 2010 strategic plan to end homelessness. The complexity of homelessness requires long-range committed regional planning in addition to coordinated social services. Political leadership is required for the higher-level decisions and policy actions needed to meaningfully address homelessness.

FACTS

- (1) There is more than one definition of homelessness. The extent of homelessness in Monterey County depends on how homelessness is defined.
- (2) There is a large discrepancy between the number of homeless reported by the 2017 Homeless Census and the Monterey County Office of Education. According to the census, the total homeless population is 2,837. According to the Monterey County Office of Education, there are 6,278 homeless students in the public-school system.
- (3) The County does not have an official count of the total homeless population based on the broader Monterey County Office of Education definition of homelessness.
- (4) Addressing homelessness is a complex—politically and logistically—challenging public problem.
- (5) There are many costs associated with homelessness both when we choose to invest proactively in preventative measures or react to homeless-related problems as they occur.

¹⁴ For more on defining and measuring political will: <https://www.vox.com/2016/2/17/11030876/political-will-definition><http://www.charneyresearch.com/resources/political-will-what-is-it-how-is-it-measured/>

- (6) Informal governance councils and/or nonprofit Continuum of Care administrators do not have the political sway or authority to secure political commitments, coordinate policy, or act on State housing bills.
- (7) At the end of 2017, the California legislature passed 15 bills aimed at addressing housing affordability & shortages. Together, the bills provide funding, make building easier, strengthen requirements for local planning, and impose fines for communities that do not address their portion of the housing shortage.
- (8) Monterey County has no county-level government agency dedicated to addressing homelessness. No joint county-city governing body has been formed or charged with overseeing homelessness.
- (9) The Lead Me Home Leadership Council (Leadership Council) is the only formal leadership body with political representation that oversees homelessness for Monterey County. Its structure was updated in 2017 to include some elected officials. Given its current composition, the council is not subject to the Brown Act (1953), which compels public access to meetings.
- (10) The structure of the Leadership Council does not give it the authority to enforce decisions or encourage public accountability. It is not legally required to hold public meetings, post meeting agendas, or publicly report goals and progress on goals.
- (11) The Leadership Council convened in 2009 to develop *Lead Me Home*: the 2010, 10-year strategic plan to end homelessness in Monterey and San Benito Counties (Strategic Plan). It operates within the Coalition for Homeless Service Providers, which is a 501(c)3 nonprofit organization.
- (12) The Strategic Plan to end homelessness has not been fully implemented. There is no budget associated with the Strategic Plan that ties resources to goals. The Strategic Plan has never been evaluated.
- (13) The current purpose and goals of the Leadership Council are unclear. The Leadership Council does not have a clearly defined purpose and goals specific to ending homelessness as initially set forth by the council in its 2010 Strategic Plan.
- (14) The Coalition of Homeless Service Providers is a small 501(c)3 nonprofit organization with four employees. Its purpose is to secure federal & state funding and to administer the Continuum of Care for Monterey and San Benito Counties.
- (15) The Coalition of Homeless Service Providers does not make its budget available to the public. It also does not post its IRS Form 990 (nonprofit tax filing) or annual report on its website.

- (16) There is no “line-item” in the budgets of County departments or cities to denote resources and/or expenditures associated with addressing homelessness.

FINDINGS

- F1. Homelessness is a bigger problem in the County than the biennial homeless census would suggest.
- F2. The County’s homeless problem has the potential to get worse if we do not invest in accessible housing solutions. Growing housing insecurity will only increase demand on our underfunded, over-stressed public services.
- F3. The County’s strategy for addressing homelessness needs a clearer focus, accountable leadership, and enhanced capacity.
- F4. Structuring the Continuum of Care administrator as a 501(c)3 nonprofit organization is conducive to securing funding and coordinating homeless services. However, a nonprofit organization cannot establish public policy and planning needed to end homelessness.
- F5. The County has unofficially established the Coalition of Homeless Service Providers as the central organization for addressing homelessness. Making any non-profit the center of homeless solutions effectively creates the perception there is governmental leadership when there is, in fact, no formal political leadership. This arrangement provides elected officials with a way to avoid accepting political responsibility for addressing homelessness.
- F6. The Coalition of Homeless Service Providers is a small nonprofit that does not have sufficient capacity to administer the County’s strategic plan to end homelessness *and* its continuum of care for both Monterey and San Benito counties. It does not provide political leadership to coalesce public support and government commitments around a concrete action-plan to end homelessness.
- F7. The composition of the Leadership Council and its location within the Coalition of Homeless Service Providers has affected the focus of the leadership council. The Leadership Council’s critical opportunity of generating and executing a strategic plan to end homelessness has narrowed to providing oversight of the Continuum of Care.
- F8. The structure of the Leadership Council does not provide authority to design and execute a regional plan to end homelessness, and it does not support full public accountability for meeting stated targets.
- F9. Political leadership is necessary to secure public support, enact policy and planning decisions that capitalize on state legislation, and execute a regional homeless plan.

- F10. Government decision-making is essential for making choices about resource commitments.
- F11. To meaningfully change the course of homelessness and housing insecurity, there must be a regional approach to homelessness and the creation of a new governing body with the power to oversee implementation of the plan.
- F12. The strategic plan to end homelessness serves as an informal guide rather than a definitive regional plan. It needs to be updated and fully implemented.

RECOMMENDATIONS

- R1. Elected County and City officials should provide government leadership to address homelessness.
- R2. The County and its Cities should form an accountable leadership body that has the power to oversee a regional approach to ending homelessness and address housing insecurity in Monterey County.
- R3. The County and its Cities should enter into a binding, enforceable agreement, such as a Memorandum of Agreement, to secure commitment to the plan and ensure responsibilities of each jurisdiction.
- R4. The Lead Me Home Leadership council should clearly define its purpose and goals.
- R5. There should be a clear distinction between governance of the Continuum of Care—as *an integral part of the broader strategic plan*—and the leadership body charged with implementing a regional strategic plan to end homelessness.
- R6. If the County effectively exerts control of Coalition for Homeless Service Providers through the Leadership Council, then the County should clearly define the purpose and role of the Coalition for Homeless Service Providers. It also follows that the Coalition for Homeless Service Providers should be adequately funded and staffed in proportion to its level of responsibilities with respect to securing resources and performing services for the county.
- R7. The newly created regional leadership body (*see R2*) should update and implement a regional strategic plan to end homelessness by defining its purpose, goals and assessments to measure and track progress.
- R8. The strategic plan should be revisited annually using outcome measurements to evaluate and adjust strategies for meeting goals.

- R9. Reports that assess which goals are, or are not, being met should be generated and made publicly available.
- R10. The new regional leadership body should produce a transparent consolidated budget to maximize resources and identify expenditures. All municipalities should demonstrate their commitment to the regional plan to end homelessness in an equitable, or proportionate, manner.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

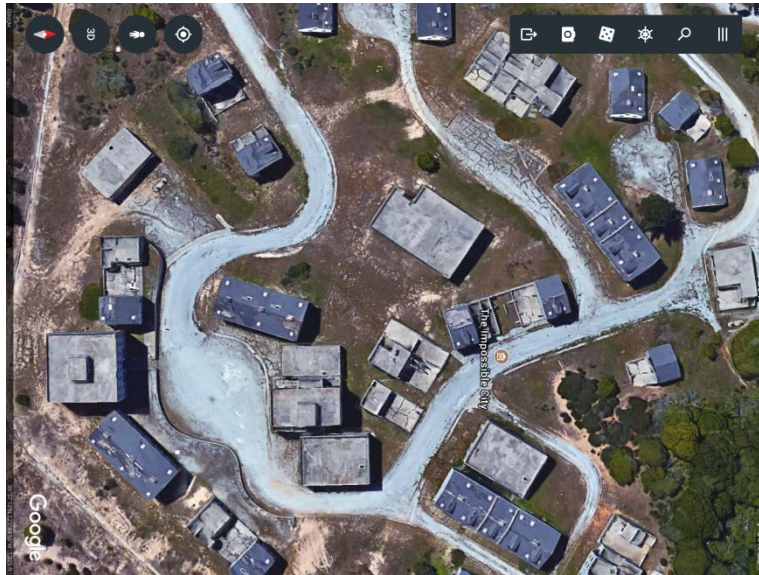
- Monterey County Board of Supervisors: F1-12; R1-10
- City of Carmel: F1-12; R1-10
- City of Gonzales: F1-12; R1-10
- City of Greenfield: F1-12; R1-10
- City of Pacific Grove: F1-12; R1-10
- City of Marina: F1-12; R1-10
- City of Monterey: F1-12; R1-10
- City of Salinas: F1-12; R1-10
- City of Seaside: F1-12; R1-10
- Sand City: F1-12; R1-10
- City of Soledad: F1-12; R1-10
- King City: F1-12; R1-10

INVITED RESPONSES

The Coalition of Homeless Service Providers: F2, F9, F11, F12; R2, R7

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

LAW ENFORCEMENT TRAINING OPPORTUNITIES ON THE FORMER FORT ORD



The Military Operations Urban Terrain (MOUT) facility located at the former Fort Ord

SUMMARY

In 2003 the County of Monterey, the Monterey Peninsula College (MPC), and the Fort Ord Reuse Authority (FORA) entered into an agreement regarding the transfer of land from FORA to MPC for the development of a public safety officer training facility.

The proposed training facility includes an existing military operations urban terrain (MOUT) facility built in 1987 to help train soldiers for combat in semi-urban settings overseas. It also includes land at a separate, non-contiguous, site on the former Fort Ord for constructing an emergency vehicle operations course (EVOC). The EVOC will enable police and fire recruits and employees to be trained in safe emergency vehicle handling skills, including practice in scenarios on a city street grid, high speed pursuits and handling vehicles on wet pavements. The EVOC site also includes space for a firing range.

A police officer training academy certified by the California Commission on Peace Officer Standards and Training (POST) has been established by MPC at a third site located on the former Fort Ord. The MPC program is offered through the South Bay Regional Public Safety Training Consortium.

The police academy is fully functional and its graduates are being hired by police departments throughout Monterey County and elsewhere. Additional action needs to be taken regarding the implementation of the MOUT and EVOC components of the training facility.

The purpose of this report is to identify facts and findings relevant to the MPC decision regarding how it wants to proceed with the implementation of those additional facilities, examine the current status of those police training facility projects, and assess whether law enforcement entities within Monterey County feel there is still a need for those facilities.

BACKGROUND

In 1988, as the Cold War was winding down, Base Realignment and Closure (BRAC) legislation was passed by Congress to reduce the number of American military bases in operation. In 1991 Fort Ord was selected by BRAC for deactivation, and the post was officially closed in 1994.

The Fort Ord Reuse Authority (FORA) was established by state law in 1994. Its mission is to oversee the conversion of the 28,000 acre former military base to community reuse and assist in the local economic recovery from losses attributable to the closure of the base.

In 2003 the County of Monterey, the Monterey Peninsula College (MPC), and FORA entered into an agreement that identified three sites of land on the former Fort Ord that would be transferred to MPC for use as a Public Safety Officer Training Academy, including:

- A Military Operations Urban Terrain (MOUT) facility
- An Emergency Vehicle Operations Course (EVOC) facility
- A weapons training range

GLOSSARY OF ACRONYMS

BRAC	BASE REALIGNMENT AND CLOSURE
BLM	BUREAU OF LAND MANAGEMENT
CEQA	CALIFORNIA ENVIRONMENTAL QUALITY ACT
EVOC	EMERGENCY VEHICLE OPERATIONS COURSE
FORA	FORT ORD REUSE AUTHORITY
MEC	MUNITIONS AND EXPLOSIVES OF CONCERN
MOUT	MILITARY OPERATIONS URBAN TERRAIN
MPC	MONTEREY PENINSULA COLLEGE
POM	PRESIDIO OF MONTEREY
POST	PEACE OFFICER STANDARDS AND TRAINING
PSTC	PUBLIC SAFETY OFFICER TRAINING CENTER

APPROACH

In conjunction with this investigation the Monterey County Civil Grand Jury (Jury):

- Interviewed senior personnel at MPC and the MPC Public Safety Training Center
- Interviewed senior personnel at FORA
- Interviewed senior Law Enforcement Personnel at eight police departments in Monterey County
- Surveyed one senior law enforcement official selected from each of the 16 police departments headquartered in Monterey County.
- Conducted numerous internet queries
- Reviewed relevant documents provided by FORA and MPC¹
- Toured the MOUT and proposed EVOC sites
- Visited the MPC Public Safety Training Center

DISCUSSION

The closure of Fort Ord resulted in 28,000 acres of land being repurposed for a wide range of federal, state, county, and city uses. Three sites are being transferred to MPC for public safety officer training. The land on those three sites is in excess of 536 acres with a value estimated by FORA of approximately \$48,000,000.

A police officer training academy certified by the California Commission on Peace Officer Standards and Training (POST) has been established on property transferred to MPC. It is located at 2642 Colonel Durham Street, Seaside California 93955. A firefighter academy accredited by the State Fire Marshall is located at that same facility.

In addition to the land and buildings currently used by the police academy, separate non-contiguous sites of land are in the process of being transferred to MPC from the Fort Ord Reuse Authority (FORA). This would enable a large scale EVOC and a long-rifle range to be constructed. The sites already contain a military operations urban terrain (MOUT) facility that would facilitate certain types of active shooter, special weapons and tactics (SWAT), and other related police training exercises. Transfer of those two sites is awaiting certification of

¹ The list of documents reviewed includes: the 2002 Agreement Regarding Public Safety Officer Training Facilities; the 2002 Assessment of East Garrison-Parker Flats Land Use Modifications Fort Ord, California; the 2003 Agreement Regarding Public Safety Officer Training Facilities; and the 2005 Memorandum of Understanding Concerning the Proposed East Garrison/Parker Flats Land-Use Modification between the Fort Ord Reuse Authority, Monterey Peninsula College, County of Monterey, US Bureau of Land Management, and US Army as Parties to the Agreement.

ordinance removal, which is expected by the end of 2018. There are land-use deed restrictions on these sites.

Military Operations Urban Terrain (MOUT)

The MOUT facility was built by the Army in 1987 to help train soldiers for combat in semi-urban settings overseas. The MOUT facility land being transferred to MPC includes 42 cinder block buildings on 51.25 acres of land with a value estimated by FORA at approximately \$4,500,000. The 2003 agreement regarding the public safety officer training academy at the former Fort Ord stipulates that MPC will devise a schedule for non-exclusive annual usage of the MOUT facility with no use fees for up to 45 days for the US military, 30 days for the FBI, 12 days for the Monterey County Sheriff's Office, and 5 days for the Bureau of Land Management.

MOUT is suited for night vision military and police training exercises and for other types of exercises where the training would benefit from being away from populated areas (e.g., practicing helicopter rescues from buildings, rappelling down buildings, etc.). The MOUT buildings and neighborhood settings bear little resemblance to those actually found in Monterey County where active shooter incidents might occur (e.g., schools, workplaces, theaters, restaurants). However, conducting training exercises using actual buildings and towns, coupled with relevant exercises away from the general public at a facility, like MOUT, would provide a broad training platform for police and other first responders.

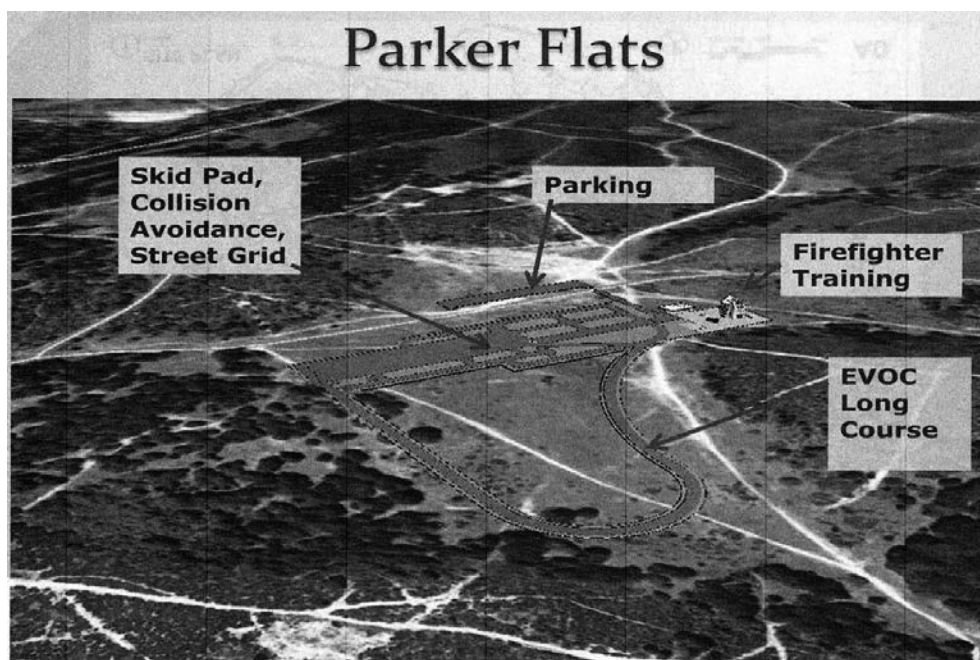
An earlier Monterey County Civil Grand Jury report, issued June 30, 2014, recommended that the County of Monterey and the City of Salinas enter into negotiations with MPC for joint use of the MOUT facility for SWAT, bomb disposal, and long-rifle training by their law enforcement personnel. In response to that Jury's recommendation, the Monterey County Board of Supervisors directed the County Administrative Office to work with the Salinas Police Department and the Monterey County Sheriff's Office on pursuing the matter based upon the timing and needs established by those two law enforcement organizations.

A status update was provided by the Monterey County Administrative Office via letter to the Jury on January 18, 2018. It noted that "the Fort Ord Reuse Authority indicated the MOUT facility is included in their Environmental Services Cooperative Agreement (ESCA) Remediation Program with the Army and is scheduled to be transitioning to MPC ownership in late 2018. The field remediation is complete and final transfer documentation processing is underway. In the interim, the Monterey County Sheriff's Office has been authorized to utilize the facility for training, through the US Army POM Right of Entry with FORA. The Sheriff has also been in negotiations with executive management at MPC regarding permanent training agreements anticipated to be available to other police organizations within the County. Final agreements are expected following transfer of ownership to MPC in 2018."

Potential for Creating a Green Emergency Vehicle Operations Course (EVOC)

The land being transferred to MPC for the EVOC is 484.8 acres of the Parker Flats area (see architectural design below) valued by FORA at approximately \$43,500,000. Two hundred ten (210.0) of those acres are designated as habitat acreage, which cannot be developed. The proposed EVOC long course consists of a large bell shaped track. The foliage selected as ground cover inside the track should be low enough that vehicles anywhere on the track can be viewed by EVOC personnel from an observation tower.

Designating some acreage as greenbelts, potential solar farming areas, or a combination of the two, could have a positive impact on the environment and possibly help generate funds for maintaining the public safety training facilities over their lifetime. A May 2013 Feasibility Study² addressed the potential for solar farming at the former Fort Ord. It concluded that all of the locations their study considered on the former Fort Ord have great potential for solar farming and could be especially beneficial if the land sites chosen either cannot be or will not be used for other purposes.



Parker Flats Emergency Vehicle Operations Course Architectural Design³

Law Enforcement Feedback

In order to assess the opinions of Monterey County law enforcement executives regarding training opportunities on the former Fort Ord, a survey was conducted addressing that issue.

² Feasibility Study of Economics and Performance of Solar Photovoltaics at the Former Fort Ord Army Base Site in Marina, California. (May 2013) National Renewable Energy Laboratory Report NREL/TP-7A30-58241.

³ From Fort Ord Ballot Initiatives, MPC Governing Board Meeting, September 25, 2013.

One command level departmental representative was selected by each department headquartered in Monterey County to provide responses to the questions contained on that document.

Departmental representatives indicated that the MPC Police Academy should provide more remedial training for students who failed to achieve required proficiency levels in areas like pursuit driving, shooting, arrest/de-escalation and report writing. Fifteen of the 57 students (26.3%) who enrolled in the 3/20/2017 MPC police academy class taught by the South Bay Training Consortium failed to successfully complete the program. When asked what changes departmental representatives would like MPC to implement, the single most frequent response (40%) was more remedial training. The police representatives indicated that failing students resulted in a significant loss in terms of:

- Funds paid by departments that sponsored those unsuccessful students (e.g., academy tuition, salary, per diem, etc.)
- Availability of new recruits to fill local critical law enforcement vacancies

Executives surveyed also indicated that having available nearby facilities and trainers where training and remediation could occur (e.g., EVOC, rifle/pistol ranges, etc.) would be helpful in alleviating those problems.

In addition to plans for using the MOUT and EVOC facilities for training students attending the MPC police academy at the former Fort Ord, those facilities would also be available to address the perishable skill training needs of current police officers throughout Monterey County. Those perishable skills, such as driving and shooting, require regular retraining, testing and certification to ensure proficiency is maintained.

- Fourteen out of 15 surveys (93.3%) from the law enforcement organizations in the county indicated they thought the existing MOUT facility would be useful for training their law enforcement personnel
- Twelve out of 15 surveys (80%) from law enforcement organizations in the county indicated they thought the proposed EVOC facility would be useful for training their law enforcement personnel

The potential benefits of using the additional training facilities located on the former Fort Ord most frequently cited on the surveys were:

- Reduced direct training costs if free or less expensive than the costs incurred at the facility currently used (15 out of 15; 100%)
- Increased variety of training and testing environments to broaden personnel ability to perform in the field when confronted with those types of issues (15 out of 15; 100%)

- Reduced travel time and related personnel costs for departments located closer to the facilities at the former Fort Ord than where they are currently receiving that same type of training (13 out of 15; 86.7%)

Use of MOUT and EVOC by Firefighters and Emergency Medical Personnel

There are approximately 700 sworn law enforcement officers in Monterey County. In addition to police training, both the EVOC and MOUT are applicable for training firefighter and emergency medical first responders. Such training could include working with police at the MOUT on how to help people wounded in active shooting situations. EVOC is appropriate for emergency vehicle driver training in a variety of road conditions.

Measure I Funds

In November 2002 Measure I was passed. It provided \$145,000,000 to improve and repair MPC facilities, including funds for the public safety officer training facility. Approximately \$9.5 million⁴ remain from that bond measure, which has been allocated to the public safety officer training facilities at the former Fort Ord or to other improvement applications specified in the bond measure. MPC may also apply for state matching funds for its public safety officer training facility bond projects, which could double the funds available. In the event MPC has insufficient Measure I and state matching funds to complete the public safety officer training facility, another bond measure will be needed.

FACTS:

The following issues need positive resolution:

1. Military Operations Urban Terrain (MOUT) Facility
 - a. MOUT currently has no water or electricity.
 - b. Without water available to fight potential fires, the exercises conducted at the MOUT facility need to be limited to those not posing a fire danger (e.g., using paintball, laser tag, or other safe simulated weapons).
 - c. FORA indicated the Marina Coast Water District is responsible for providing water to areas within the former Fort Ord, However, it is not known whether those services would be provided free of charge or how long it would take to activate them.

⁴ Access the “MPCCPD GO Bond Audit Report 2017 at: <https://www.mpc.edu/about-mpc/campus-resources/fiscal-services/annual-budgets-financial-reports>

- d. The area around the MOUT facility must be fenced to prevent users from wandering into adjacent areas containing unexploded ordnance.
 - e. Roofs on several MOUT buildings are in disrepair.
2. Emergency Vehicle Operations Course (EVOC)
- a. The EVOC proposed for Parker Flats has not been constructed. The site only contains the land needed to develop that course.
 - b. Compared to the MPC Police Academy and the MOUT Facility, the EVOC would be more expensive to build and maintain.
3. Live-fire Ranges
- a. Currently there are no long-rifle ranges in operation at the Former Fort Ord.
 - b. Long-rifle training at MOUT and Parker Flats cannot occur without site improvements.
 - c. Site Improvements must include range berms and/or safety fans⁵ to address potential errant bullets and ricochets.
4. Funding, Project Oversight, Liability and Land Transfer
- a. MPC has some remaining Measure I funds, additional funds and project oversight for the MOUT and EVOC facilities would need to be acquired.
 - b. Some of the MOUT and EVOC training exercises may pose increased potential risk to both trainees and equipment (e.g., police cars, fire trucks, helicopters), as well as increased potential liability to MPC.
 - c. Failure to provide relevant and timely training in a controlled environment where risks can be mitigated is likely to pose even greater risks to first responders and citizens should those skills ever be needed.
 - d. The two sites (MOUT and EVOC) that remain to be transferred still have land-use restrictions.
 - e. Property with deed or covenant restrictions is not expected to transfer until 2019. Deed and covenant restrictions prohibit all uses other than Munitions and Explosives of Concern (MEC) removal or the installation of roadways and utilities.
 - f. This report does not address the impact California Environmental Quality Act (CEQA) may have on the future development of these sites.

⁵ A safety fan is an area on a shooting range facility designed to contain all projectiles fired from a shooting range.

- g. The closure of Fort Ord resulted in MPC being able to acquire 535 acres for public safety officer training at no cost.

FINDINGS

- F1. Large tracts of land are needed for developing the proposed law enforcement training applications, especially for constructing a full-scale EVOC and a firing range.
- F2. The 535 acres being transferred to MPC should be sufficient land to complete the proposed public safety training facilities.
- F3. An EVOC would be highly beneficial for training police recruits, existing law enforcement personnel, firefighters, and other emergency responders throughout the County and region.
- F4. A MOUT facility would be useful for training SWAT and other law enforcement personnel throughout the County. It could also provide a useful training ground for firefighters and other first responder personnel.
- F5. Continuing to use MOUT for its original military purpose is consistent with the 2003 facility use agreement regarding public safety officer training facilities at the former Fort Ord.
- F6. The upgrades and safety features needed for the MOUT facility will be costly.
- F7. Many law enforcement departments in the County would benefit from lower costs and travel time by creating a rifle range at the former Fort Ord.
- F8. Constructing a full-scale EVOC would be expensive. Additional funding may be needed to cover those costs.
- F9. Designating large areas within the 535 acres being transferred to MPC as greenbelts, and/or as areas to be used for solar farming, could help ensure the project has a net positive impact on the environment.
- F10. The operation and maintenance of the public safety officer training facilities would require additional expenditures.
- F11. The MPC Police Officer Training Academy is currently functioning without the use of the MOUT facility, a full-scale dedicated EVOC, or a firing range due to the use of temporary facilities at other locations.
- F12. An EVOC facility and trainers near to the MPC Police Officer Training Academy, where driving-related training and remediation would occur, could reduce training expenses.

- F13. The development of the EVOC and MOUT MPC training facilities at the former Fort Ord has been under consideration for more than 20 years.

RECOMMENDATIONS

- R1. The MPC Board of Trustees should determine whether or not they want to move ahead with the MOUT project.
- R2. The MPC Board of Trustees should determine whether or not they want to move ahead with the EVOC project.
- R3. The MPC Board of Trustees should determine whether or not they want to move ahead with establishing a long-rifle range at Parker Flats.
- R4. A current financial plan detailing the feasibility of these projects should be developed by MPC.
- R5. If the decision is to proceed on one or more projects (i.e., R1, R2, and/or R3), the President/Superintendent of MPC should appoint or hire a program manager. The Program Manager's responsibilities should include overseeing the transfer of land, acquisition of additional funding and the construction, maintenance, and operation of those facilities.
- R6. If the MPC Board of Trustees does not proceed on one or more of these projects, MPC should give up their claim, so the land can be transferred for other allowed and desirable purposes.

RESPONSES REQUIRED

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the Monterey Peninsula College Board of Trustees (F1-F13, R1- R6)

RESPONSES REQUESTED

From the Executive Officer of FORA (F9, R6)

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

CITY OF MONTEREY POLICE DEPARTMENT

“Responsible to all, Second to None, Every Time”¹



¹ Motto of the Monterey Police Department

SUMMARY

California State Law, California Penal Code §919, §925 and §925(a) gives the Civil Grand Jury the authority to inquire into all prisons, jails and places of incarceration within the county. The 2017 – 2018 Monterey County Civil Grand Jury (Jury) decided to inquire into the Monterey County Jail, all city jails, holding cells, and the Monterey County Juvenile Hall. This report focuses solely upon the City of Monterey Police Department (MPD); its operations and facilities.

BACKGROUND

The history of law enforcement in Monterey can be traced back to the establishment of the Presidio of Monterey in 1770. The Presidio was established to defend the port of Monterey from feared Russian encroachment from their outposts along the western coast of the Americas. The nonmilitary citizens living around the Presidio were organized into the Pueblo de Monterey governed by an “Alcalde” (Mayor), who was assisted by the “Ayuntamiento” (City Council). In 1826 the “City Lands of Monterey” were defined by the Ayuntamiento. A full Ayuntamiento was elected in 1827 and continued to rule the city until the State of California was established in 1850. The first true police force was established in 1828 when the Ayuntamiento issued municipal regulations (laws) “for the preservation of good order of the town.” The first jail in Monterey and the county was established in 1854. Until that time it is unknown what form of punishment was employed to preserve “good order of the town.” This jail remained in use until 1956, when the current MPD facility and jail were opened. The current Monterey Police Department can be confidently traced back to 1917, and it recently celebrated its centennial anniversary.²

APPROACH

On Sept 19, 2017 the Monterey County Civil Grand Jury toured the current MPD facility. This tour included the administrative offices, jail and pistol range. During the tour, officers and administrative personnel were interviewed. According to those interviewed, the Jury had not visited the MPD in 24 years. In addition to the tour of the MPD facility, the Jury reviewed documents and conducted research. From the Jury’s research, it was determined that further inquiry was deemed necessary to cover the full scope of the MPD’s staffing, operations and potential building security issues. During a second tour and interview, a closer examination was made of the areas that are not normally open to visitors, such as the evidence room, officers’ locker rooms and property storage areas. Additionally, the Jury researched the evolution of law enforcement from inception to today’s Monterey Police Department.

² Archives (various dates) Records of Spanish Archives, Department of State, State of California. 1788 – 1846. 10 Vols. Redwood City, Mark Larwood, 19--

DISCUSSION

This discussion will focus on the organizational structure and facilities of the MPD.

Organization

The organizational structure of the MPD consists of three divisions: (Appendix A)

- I. Patrol Division: Patrol is comprised of 1 Lieutenant, 6 Sergeants and 26 Officers and is divided into two platoons. These two platoons are tasked with staffing 3 shifts of 10 hours each. First Watch (Day Shift) from 7:00 AM to 5:00 PM; Second Watch (Swing Shift) from 4:30 PM to 2:30 AM and Third Watch (Midnight Shift) from 9:30 PM to 7:30 AM. This allows an overlap of 5 hours from 9:30 PM to 2:30 AM.
- II. Investigative/Special Operations Division: Officers of this division are assigned to either the Investigations Team or the Community Action Team (CAT). Staffing for this division consists of 14 Detectives in the ranks of 1 Lieutenant, 2 Sergeants and 11 Officers.
- III. Administrative Division: The Administrative Division is divided into three units. The three units are: Records/Jail/Evidence, Personnel/Internal Affairs, and Support Services.
 - A. Staffing for this division is one Lieutenant, one Administrative Analyst, one Sergeant, one Police Records/Detention Supervisor, three Senior Police Service Technicians, eight Police Service Technicians and three Level 1 Administrative Assistants. The Records/Jail/Evidence Unit is responsible for staffing the police station lobby.
 - Their task is to be responsive to the community (24 hours per day)
 - Running the City Jail (24 hours per day)
 - Processing all reports and evidence
 - Responding to records requests
 - Other duties as required
 - B. The Personnel/Internal Affairs Unit is responsible for recruiting, hiring, training, personnel related issues, internal investigations and other issues not otherwise assigned.
 - C. The Support Services Unit is responsible for coordinating fiscal issues, contracts, providing analytical support, processing all subpoenas and other court related issues, data entry, processing and issuing permits, regulating taxi cabs and other related issues.

Facility

The Jury's first impression was that the facility was almost spotlessly clean and well maintained. It did not look like a sixty-one-year-old building until areas not generally open to the public were visited, i.e. the police officers' locker rooms. The building itself and these areas were designed for a much smaller police force. The evidence room is small and inadequate to house the evidence and to meet current MPD needs. In addition, there isn't a sally port, which is a secure area where arrestees can be safely transferred from police cars to the booking area and temporary holding cells.

FACTS

The following facts were determined through three interviews with knowledgeable MPD personnel (both sworn and unsworn) and personal observation during two visits to the site.

- (1) The police department is operating in a facility opened in 1956, and was designed for a city with a population of 16,205 and a force of 30 sworn Officers. Today that facility supports a population of 27,810 and a police force of 53 sworn officers and 19 professional positions.
- (2) Events such as the AT&T PRO/AM Golf Tournament, the Laguna Seca Raceway and other major tourist events swell the population to over 70,000, almost triple the permanent population.
- (3) Compared to the 1950s, drug related crimes and gang violence are more common. These two facts alone place a greater demand on police enforcement.
- (4) The national and state average ratio of officers per 1,000 residents is 2.4 sworn officers at the national level and 2.32 per 1,000 at the California state level³. MPD would need to add 12 officers for a total of 65 to realize the California ratio of 2.32 officers per 1,000 residents.
- (5) The facility has 6 individual jail cells and 1 dormitory-type holding cell for a total capacity of 10 arrestees.⁴
- (6) A food preparation area is available to provide hot meals for arrestees.
- (7) All local detention facilities are required to be inspected biennially by the California Board of State and Community Corrections

³ <https://ucr.fbi.gov/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/police-employee-data>

⁴ The 2016 – 2018 Biennial Inspection was conducted on November 9, 2017.

- (8) The combined jail area of the MPD is separated from the administrative spaces by a heavy cell type door.
- (9) The facility is subdivided into office spaces, shared by several officers, a medium-sized conference room, a reception area, and a secure evidence storage area.
- (10) Separate locker rooms are provided for male and female officers.
- (11) There is a small arms practice range located in the basement.
- (12) Arrestees are brought through a side door which opens directly into the parking lot. Once the arrestees have entered the booking area, they are processed and placed into one of the cells.
- (13) Those arrested for a misdemeanor are cited and released.⁵
- (14) Generally, in the case of a felony, the arrestee is transported to the Monterey County Jail in Salinas. This can be a lengthy process. According to department personnel it takes a minimum of an hour to process a prisoner at the county jail.
- (15) Prisoners requiring medical care must be transported by the arresting officer to the Natividad Medical Center (NMC). The transporting officer must wait while the prisoner is evaluated, treated and released to their custody.
- (16) Transporting the arrestee to the Monterey County jail and, if necessary, the NMC and back to the county jail for booking can take as little as one or up to several hours. During this time the officer is not available to respond to the needs of citizens in Monterey.
- (17) The parking area for both police patrol cars and officers' personal vehicles is poorly lit and separated from the street by a simple chain between two posts. There is no additional fencing around the parking area.
- (18) Recovered bicycles and abandoned personal property from throughout the city are stored in secured containers on MPD property and at other locations within the city.

FINDINGS

- F1. The Monterey Police Department is consistently at 10 – 20% below its authorized staffing level of “street-ready” officers due to injury, illness, vacation, hiring, training and retirements.

⁵ A cite is a mandatory court appearance date.

- F2. The absence of a secured perimeter and poor lighting around the building and the parking area result in an unsafe environment for officers and may also result in the risk of tampering with police department and personal vehicles.
- F3. The absence of a secure sally port does not meet current security practices. Arrestees are taken from the police vehicle through a side door directly into the booking area.
- F4. The booking area is not secure due to the fact that only a single door prevents the arrestee from escaping.
- F5. There is little that can be done about the lack of a secure sally port and other inadequacies in the existing police station.
- F6. The facilities for police officers, including the locker rooms, showers and toilets are inadequate to meet the needs of a force of over 50 sworn officers and 19 administrative staff.
- F7. Access to the officers' lockers is a narrow passageway between rows of lockers. This passageway is barely wide enough for an officer to pass through and impossible for two officers to pass in each direction at the same time.
- F8. The current staffing of the Monterey Police Department does not meet the California standard of 2.32 sworn officers per 1,000 residents.
- F9. During the tour the Jury noticed some ceiling tiles appear to be original to the building and if so, there is a high potential that they contain asbestos. Additionally, given the age of the building some of the paint on the walls may be lead based.
- F10. The MPD has worked diligently to rehab and maintain a 63-year-old facility through staff projects (performed on their own time) such as painting of walls and ceilings. The Jury found the facility to be in a near spotless condition.
- F11. The Monterey County Civil Grand Jury found the officers and staff contacted by the Jury to be dedicated to their city, police force and their duties. Those contacted showed great pride in their individual roles for the protection of their city.
- F12. The Jury publicly recognizes the Police Chief and his staff for the commendable job they do with the manpower and administrative support available.

RECOMMENDATIONS:

- R1. The parking area should be secured by a chain-link fence with razor wire on the top. Entry to the parking area should be via an electronically controlled gate.

- R2. The Monterey Police Department facility should be replaced to meet the security needs of department personnel, the population of the city and the police force it serves. The Monterey County Civil Grand Jury recognizes that funding is a controlling factor.
- R3. The Monterey City Council should add additional authorizations each year to adjust the disproportionate number of sworn officers to residents until the California standard is met. This should include sworn officers and unsworn professional administrative staff.
- R4. The Monterey City Council should authorize a hazmat inspection (if it hasn't already been completed) of the existing facility to determine and alleviate any hazmat problems.

REQUEST FOR RESPONSES

The City of Monterey Mayor and City Council. Findings F 1 – F 11. All Recommendations

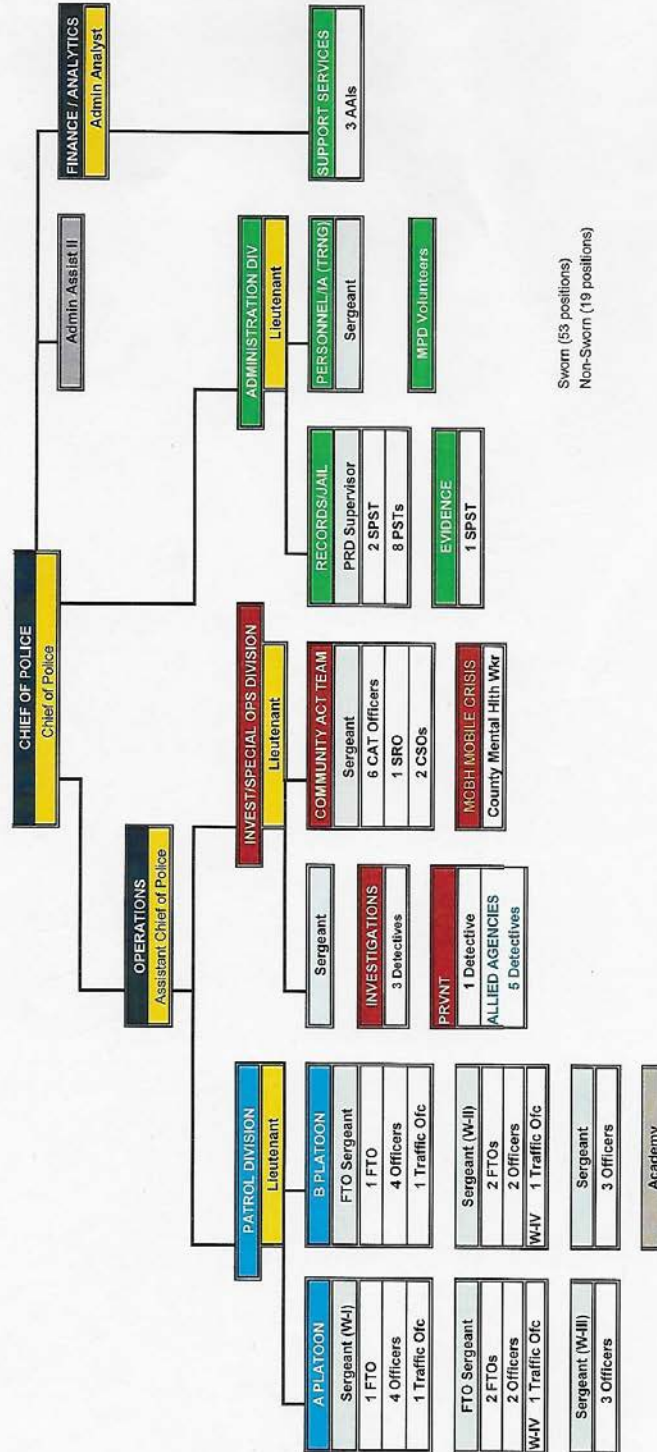
INVITED RESPONSES

The City of Monterey City Manager. Findings F1 – F11. All Recommendations



Copy of photograph circa 1900 posted in the Monterey Police Department lobby.

Appendix A



INQUIRY INTO CORRECTIONAL, LAW ENFORCEMENT AND COURT FACILITIES IN MONTEREY COUNTY

INTRODUCTION

Section 919(b) of the California Penal Code states that each Civil Grand Jury “shall inquire into the condition and management of the public prisons within the county”. To fulfill that requirement, the Monterey County Civil Grand Jury (Jury) toured the two state correctional facilities located in Soledad, California. In addition, the Jury toured the Monterey County Jail and Juvenile Hall both located in Salinas, California. To complete the Jury’s tours of places of incarceration ten of twelve city police departments and the Monterey County Superior Court in Salinas were visited to inspect their holding cells.¹

In Monterey County the State of California operates:

- Salinas Valley State Prison (SVSP) in Soledad
- Correctional Training Facility (CTF) in Soledad

The holding cells located at the Salinas Superior Courthouse are operated by the Monterey County Sheriff.

The city of Monterey operates a type I detention facility/jail ².

Although the Grand Jury is not required to make recommendations for changes in any of these facilities, this Jury has chosen to inquire into the condition of correctional, law enforcement and court facilities in the county and provide a short summary of its observations.

CORRECTIONAL FACILITIES

In the tours of the state correctional facilities, the Jury was impressed by the range and availability of education and vocational programs accessible to inmates for obtaining employable skills upon their release. Also notable during tours was the attention given to the dining facilities and to providing proper nutrition for the inmates. The general impression was that the facilities were clean and well maintained.

Construction of a 576-bed expansion to the Monterey County Jail commenced on September 18, 2017. The new addition to the county jail will bring total capacity to approximately 1,400 beds. Jail capacity fluctuates for a variety of reasons, including individual inmate cells required for

¹ Del Rey Oaks and Sand City are the two smallest communities in the county. Their police departments are small and do not contain jails or holding cells. The Jury did not visit these police departments, but they were contacted by telephone and email to verify facts.

² Minimum Standards for Local Detention Facilities”; Title 15-Crime Prevention and Corrections, Division 1, Chapter 1, Subchapter 4, Page 12.

security reasons. At the time of the Jury's visit, the inmate population was 875. Because of the variable prison population in the jail and uncertain funding for increased staffing, a specific plan of how the space in the old facility would be used in the future had not been finalized. In a subsequent interview, officials at the County Jail emphasized that continuing to increase program services and inmate mental health would be among the priorities being considered.

Some of the program services discussed were:

- Education: GED, junior college and vocational/technical
- Drug and Alcohol Rehabilitation
- Religious Services

The state prisons and the county jail have sally ports, which provide additional security when transferring prisoners between the facilities and transport vehicles.

On May 17, 2017, construction began on a new juvenile hall with a capacity of 120 beds. This will replace the existing facility with 114 beds that was constructed in 1959. An addition to that building was constructed in 1984 and will continue to be used. The older section is scheduled for demolition after the new facility has been completed. This project is the culmination of an effort that has taken years to bring to fulfillment. It will provide the juvenile offenders, the staff and the administration with an environment that offers dignity and respect as well as safety and security.

CITY POLICE DEPARTMENTS

The Jury visited ten of the twelve city police departments throughout the county and noted such things as perimeter security, holding cells, sally ports and the age and overall condition of the facilities. Three of the facilities were constructed in the 1950s, two in the 1960s and four in the 1970s. As indicated below, two of these older facilities are scheduled to be renovated or replaced. City police department statistics can be found in Addendum A.

The City of Carmel has approved renovations to its police department facility.

The City of Salinas has approved funding for a new police department building to replace the old and inadequate building.

The Greenfield Police Department occupies modern quarters in a section of the recently constructed municipal building. Due to funding constraints, some final steps, such as completion of the holding cells, remain to be completed at the time of the Jury's visit. The facility appears to have been planned to meet both the present and future needs of the Greenfield Police Department.

Five of the twelve city departments have the security of a sally port. At least one department previously had a sally port that was eliminated when space was needed for department staff.

The Jury has not made reports on all of these facilities. However, a separate report has been made on the City of Monterey Police Department's facilities.³ That report highlights some of the limitations inherent in a sixty-year-old structure.

SUPERIOR COURTHOUSE – SALINAS

The Monterey County Sheriff operates holding cells. The Courthouse has a sally port for the secure transfer of prisoners.

SUPERIOR COURTHOUSE – SOUTH MONTEREY COUNTY

The 2013⁴ closure of the King City Courthouse placed a burden on South Monterey County police departments, all of which have a small number of sworn officers. A copy of the closure notice can be found in Appendix B.

A concern expressed by several of these police departments was the strain on local police coverage when officers transport those arrested to the county jail and the courthouse, both of which are located in Salinas. The departments also noted the amount of time required for these transports. South County jurors, witnesses and trial attendees are also adversely affected by the increased distance.

SUMMARY AND CONCLUSIONS

Since the comprehensive report of the 2016 –2017 Civil Grand Jury was issued, many improvements have been made to the corrections and law enforcement facilities in Monterey County. Construction of a major addition to the county jail is underway, the juvenile hall has broken ground on a new facility, the City of Salinas has approved a new building for its police department and Carmel is in the early stages of planning an upgrade to the facility housing its police department.

The Jury commends the citizens of Monterey County and the Monterey County Board of Supervisors for their willingness to provide for these essential changes. In particular, the Jury commends the senior leadership of the Probation Department for its dedication to the well-being of the youths residing at juvenile hall, and their unflagging determination to build a new facility. We also commend the efforts of the Sheriff's Department to complete the design and commence construction of the new addition to the County Jail.

More work remains to be done. Renovations will be necessary for the continued use of some areas of the existing county jail. Law enforcement facilities in Monterey and Seaside are over sixty years old. The police departments in King City, Pacific Grove and Soledad occupy facilities

³ City of Monterey Police Department – Monterey Civil Grand Jury 2017-18 Report

⁴ <http://www.monterey.courts.ca.gov/Documents/News/2013-Public-Notice-KC-temp-Closure-Notice.pdf>

that are forty or more years old. While the Jury found the maintenance and cleanliness of these older facilities to be good, they were not designed to meet the needs of current population and staffing levels. Finally, the closure of the South County Courthouse has placed a considerable burden on the law enforcement entities of the southern part of the county.

GLOSSARY

CTF – Correctional Training Facility in Soledad

Holding Cells – “Temporary Holding facility”⁵ means a local detention facility constructed after January 1, 1978, used for the confinement of persons for 24 hours or less pending release, transfer to another facility, or appearance in court

Jury – Monterey County Civil Grand Jury

Sally Port - A secure entryway (as at a prison) that consists of the enclosed space between two locked doors or gates that must be traversed to enter the unit. The doors cannot be opened at the same time to reduce risk of flight

SVSP – Salinas Valley State Prison in Soledad

⁵ <https://www.merriam-webster.com/dictionary>

APPENDIX A
Statistics City Police Departments in Monterey County

	Year	Authorized		Officers	Number of	
City	Building	Police	City	Per 1000	Holding	
<u>Name</u>	<u>Built</u>	<u>Officers</u>	<u>Population</u>	<u>Residents</u> 6	<u>Cells</u>	<u>Sally port</u>
Carmel	1967 ⁷	15	3,938	3.81	1	No
Del Rey Oaks	1953	8	1,650	4.85	0	No
Greenfield	2011	23	16,929	1.36	0	Yes
Gonzales	2010	10	8,440	1.18	2	No ⁸
King City	1978	17	13,581	1.25	4	Yes
Marina	1993	29	21,688	1.34	2	No
Monterey	1956	53	28,454	1.86	7	No
Pacific Grove	1974	22	15,504	1.42	3	Yes
Salinas	1966 ⁹	174	157,218	1.11	3	No
Seaside	1954	42	31,342	1.34	4	Yes
Sand City	1970 ¹⁰	13	383	33.94	0	No
Soledad	1970's	17	25,336	0.67	2	Yes ¹¹

⁶ In California, the average ratio of sworn officers per 1,000 residents is 2.32

<http://www.governing.com/gov-data/safety-justice/police-officers-per-capita-rates-employment-for-city-departments.html>

⁷ A plan for the renovation of the existing facility was approved in 2017.

⁸ The original plan was to have a covered and secure sally port, but the plan was scaled back at the time of construction to reduce costs.

⁹ The new building project is being finalized. Construction bids are next. It is expected that the building will be finished and ready for occupancy in early 2019.

¹⁰ The original building was constructed in 1970. It was upgraded in 1993.

¹¹ The original building was constructed in the 1970s. It was upgraded in the 1990s. There is an uncovered sally port that is partially secured by a chain link fence.

APPENDIX B



SUPERIOR COURT OF CALIFORNIA COUNTY OF MONTEREY

PUBLIC NOTICE*

TEMPORARY CLOSURE OF KING CITY COURTHOUSE EFFECTIVE MONDAY, SEPTEMBER 23, 2013

Pending the restoration of funding by the State for the new South County Courthouse project, the King City Courthouse will temporarily close effective Monday, September 23, 2013. Without an immediate remedy to the current facility's limitations combined with the need to maximize resources, the Court has decided to temporarily close the King City Courthouse. King City personnel will be reassigned to fill court-wide vacancies. At this time, it is unknown when the funding for the South County Courthouse construction project will be restored.

Locally, the funding allocation has decreased by 17.5% from 2008, which represents approximately \$10 million over the past five years. Recently the State and Assembly Budget Subcommittees announced their support to reinvest in the Judicial Branch. While the proposed reinvestment will assist in reducing the deficit, it will not remedy the devastating impacts of previous State reductions.

Upon the temporary closure of the King City Courthouse, all misdemeanor and felony cases will be heard at the Salinas Courthouse and all traffic and small claims matters will be heard at the Marina Courthouse. Court location details and public service hours are detailed below and can be viewed online at http://www.monterey.courts.ca.gov/General_Information/Locations.aspx.



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