

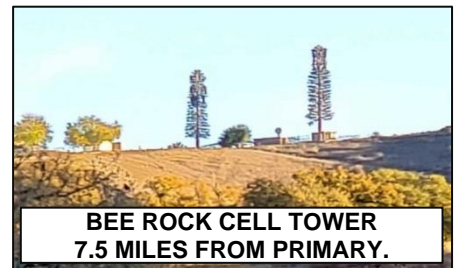
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Civil Grand Jury on-site inspections found that at least three cell towers were closer to the primary site than the reportedly “closest tower.” One dual tower (loc: 35.777661, -120.939351)² was only 7.5 miles from the primary site for this project. Others ranged between 10.4 miles (loc: 35.951913, -121.001724) and 14.8 miles (loc: 35.956399, -120.858729) distance. Civil Grand jurors noticed yet other towers in the local area, but after confirming that multiple towers existed that were between 13% and 56% closer than reported closest tower, the point was established.

The Civil Grand Jury determined that even this simple error had negative effects. It restricted any genuine consideration for alternative locations. It stifled genuine examination of existing local cell towers for comparative models of appropriate (or inappropriate) siting/ locations or designs. It also stimulated local puzzlement.



The Civil Grand Jury interviewed several local residents who disagreed with the staff report’s assertion that no tower was closer than 17 miles. Several mentioned “the Bee Rock tower” (this tower also was mentioned in the October 25, 2018 public hearing).

The misrepresentation of the actual conditions on the ground in their community, especially to justify a project of which they had been unaware, fostered a sense of mistrust and doubt in some. Their suspicions focused both on the new cell tower and on RMA Planning. These attitudes and concerns were visible in part at the public hearing and corroborated later in subsequent Civil Grand Jury interviews.

For the Civil Grand Jury, the question was: how could planners prepare applications without ensuring their staff work was accurate?

One mitigating factor in this application that was considered by the Civil Grand Jury, but which did not justify such errors, was distance. RMA planners preparing PLN 180317 were 80 miles away from the site. The Civil Grand Jury could confirm only one planner

² For specified locations, this report uses Decimal Degrees (dd) and World Geodetic System, 1984 (WGS84) datum

visit to the site prior to the public hearing --and no supervisor visits until after the tower was built. The Civil Grand Jury did confirm that the planner visited the 17-mile distant (“closest”) cell tower. This planner visit underscored the conclusion by the Civil Grand Jury that the requirement to understand a remote, rural area with plains, valleys, hills, rivers and badland—especially in the context of a major, area-changing local project, demands more than one quick or routine staff visit. Even the Civil Grand Jury required multiple trips to gain appropriate awareness of actual conditions on the ground.

The Civil Grand Jury determined that the appropriate and necessary level of local research and preparation was not done by RMA planners, and not required by RMA Planning managers. The Civil Grand Jury recommends creating or amending RMA Planning staff procedures to require more in-depth and early planner visits to remote rural areas, especially when significant projects are considered for those areas. Such visits must augment, not replace, LUAC recommendations.

Another example of significant error in the staff report for the Application was in the (required) Radiofrequency Electromagnetic energy (RF-EME) report. This report asserted: “There are no microwaves installed at this site” (Exhibit F, page 10). This, too, was false.



PLN 180317 Microwave Dish Antenna

In the RMA-prepared application package, just a few pages back from the RF-EME report’s assertion, the draft Resolution noted that the tower had one microwave dish antenna (Exhibit C, Draft Resolution para.1). The Civil Grand Jury investigators confirmed its presence after construction.

The Civil Grand Jury recognized that microwave dish antennas, like other highly directional antennas, have relatively little contribution to effective radiated power (ERP).³ However, FCC guidance⁴ also states that all but categorically excluded devices

³ FCC OET65. 1 Aug 1997. pp. 26-27.

⁴ FCC OET65. 1 Aug 1997. pp. 32-33; 47 (CFR) § 1.1307(b) & (b)(1) and Table 1

and sites are to be included in computing compliance. The microwave dish antenna was not an excluded device.

The RF-EME report for the Application simply did not model or compute the MPE levels for this microwave dish antenna.

Not only was this a careless approach that was missed by planners and Planning managers alike, it also did not conform with a sample of recent RF-EME reports from around the State that the Civil Grand Jury reviewed for comparison. In those reports, the Civil Grand Jury found that including microwave dish antennas (where they existed) was a common reporting practice.

The Civil Grand Jury also discovered that MPE computations for microwave dish antennas cannot be done by using (most) modeling software. If the microwave had been included, its effects typically would have to have been manually computed. (Staff Report, Exhibit F page 10 (note); FCC OET65,1997, pp. 44,50)

The Civil Grand Jury found this initial RF-EME report concerning because it missed one antenna and failed to include radiation power data from that antenna in calculating MPE levels for the site. The Civil Grand Jury also concluded that no careful review of this report was made by RMA planners, RMA Planning managers, or even the Zoning Administrator in reviewing and approving this project. It was one more element that weakened, rather than reinforced public trust in the Application process.

The final or operational RF-EME report reviewed by the Civil Grand Jury provided a better result. That report directly measured (not modeled) the emissions on the now-operational site (See appendix B). It also provided details on all antennas, except for the

What is a Radio Frequency Electromagnetic Energy (RF-EME) Report?

An **RF-EME** evaluation is a compliance certification required by 47 CFR Parts 1, 2, and 15, et al. Ch 1. § 1.1307(b).

New, modified, and renewing wireless communications facilities must prepare an environmental assessment (EA) for **radio frequency electromagnetic energy** (RF-EME) exposure, and certify that the effective radiated power (ERP) of a facility complies with FCC limits for human exposure (maximum personal exposure/ **MPE**) to radiofrequency radiation (IAW 47 CFR §§ 1.1310 and 2.1093).

Some equipment (sites) have categorical reporting exclusions. Generally, all transmitters of a facility must be included (47 CFR §1.1307(b) & (b)1).

microwave dish antenna. (The RF-examiner who prepared that report noted its presence, but knew nothing about it, beyond the visual identification of its height on the tower.) Because the emissions data were measured for the entire site, the results this time did include that microwave dish.

The actual results were (predictably) within FCC required guidelines and close to those provided in the (incomplete) initial RF-EME report. (see Table One)

Table One PLN 18-0317 RF-EME Reports (before approval & post operational)		
RF-EME Report	FCC general public limit	FCC occupational limit
BEFORE: 06-15-2018⁽¹⁾ (modeled /ground level)	3.20 % of the limit	0.64 % of the limit
AFTER: 02-04-2020⁽²⁾ (measured /ground level)	2.2370 % of the limit	0.7111 % of the limit
(1) See Appendix A (2) See Appendix B		

While the Civil Grand Jury was reassured by the confirmation of the cell tower’s compliance, we cannot endorse or validate an incomplete approach toward technical safety, especially when it was used to support decisions for such a significant project.

The Civil Grand Jury recommends inclusion of a post operational RF-EME survey by a certified RF engineer and at applicant expense for all Cell towers planned or approved by the County as a best practice. This survey should be included as a condition of approval or updated into MCC 21.64.310 as an element in the wireless communications facilities code.

E. Considering Local Views and Character (F6, F10)

The Civil Grand Jury concluded that the staff report for the Application deflected meaningful consideration on the appropriateness of the proposed cell tower's location with its references to "*designated public viewing areas.*"

In both the staff report ("*There is no designated public viewing area, scenic corridor, or any identified environmentally sensitive area or resources.*" page 3) and in the draft resolution ("*The project will not significantly affect any designated public viewing area, scenic corridor or any identified environmentally sensitive area or resources.*" page 4) the absence of a designated public viewing area was a characteristic used to reinforce the validity of the primary site.

The term "designated public viewing area" appears as a standard condition for approval on RMA Planning land use applications. However, it was not defined in any of the County current references that were made available to the Civil Grand Jury.

This was puzzling, and when asked by the Civil Grand Jury, RMA Planning managers and planners could not point to any official County definition for "designated public viewing areas" in any County references. This is significant.

In contrast to "designated public viewing areas," the County code has *special terms* like "scenic corridors," "environmentally sensitive areas," and "historical districts." All these are specific terms with specific meanings. These terms are carefully used to deny, or to shape how projects can be placed in certain areas.

After concluding staff interviews, and reviewing all code and area plans for the County, the Civil Grand Jury determined that the term "*designated public viewing area*" was being used like the above-mentioned *special terms*. For PLN 180317, since Hesperia Road and other nearby roads were not recorded as "*designated public viewing areas*," the placement of the cell tower, even at its 120 feet in height, would be less problematic. After reviewing other parts of the County code, however, the Civil Grand Jury disagreed with this connotation.

The Civil Grand Jury looked at MCC 21.06.195, which defines "*Common public viewing areas.*" Public viewing areas are: "*a public area such as a public street, road, designated vista point, or public park from which the general public ordinarily views the surrounding viewshed.*"

Based on MCC 21.06.195, the Civil Grand Jury identified a public viewing area approximately 16 feet in front of the tower's location. It was (and is) the named public road --Hesperia Road. In addition, the Civil Grand Jury identified public viewing areas on nearby Smith Road and on nearby Bryson-Hesperia Road. All were common public viewing areas. (But the private property in the same area was not--this applies only to public areas.)

The Civil Grand Jury determined that, instead of using an unreferenced term found only on RMA Planning approval forms (designated public viewing areas), it would have been more appropriate, and better conforming to Monterey County Code, for the RMA planners and Monterey County approving officials to have applied the standard found in MCC 21.64.310 H 1.e. This standard requires that cell towers be "...screened from any *public viewing areas* to the maximum extent feasible" (emphasis added).

The Civil Grand Jury concluded that, to comply with this section of the County's Code, this cell tower should have been located, to the maximum extent feasible, in a screened location. Based on Civil Grand Jury onsite investigations, this may have been possible on another portion of the primary site property, but it was extremely likely, had the (larger) alternative site been considered. This diligence to the code was not done at any level by RMA Planning and does not appear to have been earnestly considered in review as well.

The staff report (page 3) for PLN 180317 further suggested that the camouflage on the tower would suffice. It noted: "*Where visible, the mono-eucalyptus would appear in character with the surrounding mature trees and would not be easily recognizable as a wireless communications facility.*"



**HESPERIA ROAD VIEWSHEDS TWO VIEWS:
FACING AWAY & FACING TOWARD THE CELL TOWER**

This was another inaccurate assertion.

The Civil Grand Jury considered this staff report judgment in the context of grand jurors' on-site examinations at different locations in the area, local area photos, and observations provided by local residents who were interviewed.

All these perspectives unanimously rejected the premise that the cell tower was "in character" with any of the surroundings. The Civil Grand Jury also rejected the proposal that the cell tower would not be "*easily recognizable as a wireless communications facility.*" The Civil Grand Jury was puzzled how an official County report, especially one used by decisionmakers for a project, could proffer so blatant a misstatement.

The Civil Grand Jury then inquired into how this location, and the final design, were managed and decided during the application process.

The results of Civil Grand Jury interviews with RMA personnel on this aspect provided mixed insights. Some dismissed questions about the location, because they believed it was the only acceptable location for the applicant. Others appeared sensitive to this miscalculation but tendered few thoughts. Yet others in the RMA Planning division provided indifferent replies to the question.

The Civil Grand Jury's conclusion on the siting / location for the PLN 180317 was that an inappropriate location was approved by the Zoning Administrator. The location was inappropriate because, as situated and designed, the proposed cell tower failed to meet multiple site and design conditions of MCC 21.64.310 including: E.2 (has local citizen input on impact and alternative sites), H.1a (preserve visual character, aesthetic value of parcel and surrounding land), H.1c (not sited to create clutter & negatively affect specific views), H.1d (designed to minimize visual impact), H.1e (screened from any public viewing areas), H.2d (designed to mitigate potentially significant adverse visual impacts), and J.3 (complies with all applicable requirements of 21.64.310).

As a result of these multiple failures to comply with MCC 21.64,310's guidance and direction for design and siting, this application did not meet a required finding for Use Permits as listed in MCC 21.74.050.B.1 (will not be...detrimental or injurious to property and improvement in the neighborhood.). As proposed, this application should not have been approved.

The Civil Grand Jury determined that this primary site location, an inappropriate location, was permitted by RMA Planning in part because of a lack of technical expertise by some planners, in part because of a lack of RMA Planning manager sensitivity to the magnitude of this project in relation to the rural Hesperia plain, and finally, in large part, because of the failure to consider the alternative site as discussed in a preceding portion of this report.

At least two of those miscalculations, local insensitivity and alternative site considerations, could have been lessened by sending this application to the South County LUAC, where it would have been reviewed for design and local considerations—including location.

The Civil Grand Jury, however, did discover that a positive outcome was mined from these challenging circumstances.

RMA Planning managers seized on the presence of the final cell tower itself as an example of the difference between how a project develops or appears in an application, or in the RMA planner's office, and how a project truly appears, or turns out on the ground.

In early September 2019, these managers conducted a staff visit to the cell tower site with all RMA planners. This staff site visit was not to blame or investigate, but to teach and share the lessons that all planners must learn if they are to manage projects that influence communities and affect environments.

However, by making PLN 180317 into a cautionary tale for learning, the RMA Planning managers were implicitly validating the scale of errors that were made in approving this cell tower's location and design. The Civil Grand Jury recognizes that future benefits likely will accrue to South County and other County communities and applicants by these managers' initiative.

Yet, the Civil Grand Jury must also highlight that the inability of RMA Planning to remedy this current cell tower's negative effects on both the rural character and aesthetic charm of the Bryson-Hesperia area will carry on into the future as well.

F. RMA Planning (F8, F9, F10, F11, F12)



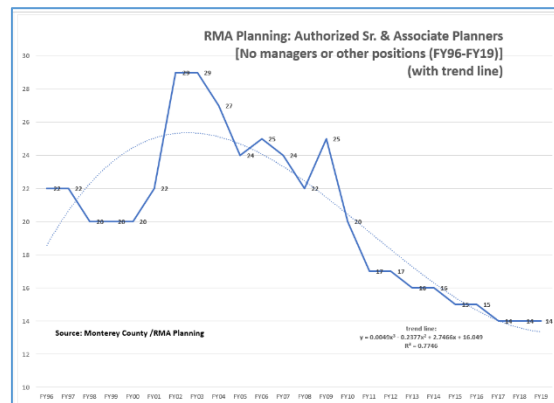
RMA PLANNING - THE PERMIT COUNTER

In investigating PLN 180317, the Civil Grand Jury also reviewed the organization of RMA Planning’s Current Planning division, with an emphasis on the planners.

This division is “responsible for reviewing land use and development proposals and permit requests for consistency with the County's adopted land use policies and regulations and taking the appropriate action on these requests.” The major portion of the division’s complex and varied work is performed by Land Use Planners, commonly called planners.

The Planner Position

RMA Planning has three classifications for planners: Senior Planners, Associate Planners, and an Assistant Planner. RMA Planning manages these planner positions under two planner authorizations: Senior Planners or Associate Planners. The authorized numbers for each position vary year to year. The Civil Grand Jury found that the trend for authorized (combined) planner numbers has been nothing but downward since 2009.



RMA PLANNING (COMBINED) PLANNER AUTHORIZATIONS BY FISCAL YEAR

Planner workloads, however, appear high.

At the time of PLN 180317 (and now)

each planner was responsible for a large number of applications. Civil Grand Jury research suggests that, in 2018 (and currently), each planner had on average between 50 and 100 open applications on their desk at any one time throughout the year.

Planners personally managed each of these applications through the entire approval process.

At the time when PLN 180317 was submitted (June 15, 2018), RMA Planning had 13 on-hand planners against an authorization for that year of 14 planners (not counting supervisory managers, or other staff). This was 93% of the authorization, and the average experience level for planners was about five years and seven months.

Superficially, these figures appeared sound. However, a qualitative look by the Civil Grand Jury was disconcerting.

The on-hand number (13) of planners was only 76% of RMA Planning's 10-year average planner authorization (17). Moreover, the on-hand number was only 44.8% of RMA Planning's previous high authorization year (2003) for planners. In that year, RMA Planning was authorized 29 planner positions. The numbers suggested that RMA Planning was doing more with fewer "rubber-meets-the-road" planners.

The Civil Grand Jury's qualitative review of the current cadre of planners revealed an even more troubling truth: On June 15, 2018 (when PLN 180317 was submitted), five planners, or 38% of all RMA planners, had been in RMA Planning less than 90 days. The number of planners authorized for RMA Planning was not only the smallest number in 23 years, but it also appeared to be a time of one of the least locally experienced cadres.

Nonetheless, when the Application was submitted, RMA Planning managers could have assigned this cell tower application to one planner with 23 years of experience. Alternately, they could have selected a planner with 15 years, 13 years, 11 years, or even 4 years of experience. Those were RMA Planning's five locally experienced planners.

Instead, RMA Planning managers assigned the Application, a cell tower application in one of the most remote and rural parts of county, to one of the newest planners in the division. That planner, an Associate Planner, qualified by prior planning experience elsewhere, had worked only 74 days in this County when assigned this cell tower application.

The Civil Grand Jury assessed that, based on local experience, the planner choice for this application was an error in judgement by the managers.

The Planning managers made two misjudgments: (1) that cell towers, which had accounted for less than 10 of the thousands of permits processed during the years surrounding this application, were routine projects and (2) that local experience was a

minor qualification in assessing the appropriate assignment of a complex land use application for a remote rural community with scenic views and a unique character that were little changed since the area was settled hundreds of years earlier.

The Civil Grand Jury determined that RMA Planning managers' misjudgments directly fostered the environment for the defective results of PLN 180317, including the inappropriate choice of cell tower location, and the inadequate cell tower design for the local environment.



BRYSON - HESPERIA BEFORE

The Civil Grand Jury also found that RMA Planning division, managers and planners, made no mindful effort, beyond the routine noticing mentioned above, to ensure that the community was even aware of this upcoming major project. On the contrary, RMA Planning division eschewed a necessary review by the South County LUAC for this tower (as detailed in preceding sections). RMA Planning managers and planners did not anticipate, or appear concerned about, local input and reactions to the project. That was the case until the District Three Supervisor requested their presence in a meeting with the community in Hesperia Hall on August 28, 2019.

The RMA Planning Permit Application

In addition to the organization, the Civil Grand Jury also examined RMA Planning's "application checklist for land use and development application" for this type of project. The application is long, approximately 13 to 15 pages. The application also included

(then and now) different project add-on sections for various types of projects, including an add-on segment for processing cell tower applications. The basic document was flexible and comprehensive. However, the add-on segment for processing cell tower applications was (and is) out of date.

In RMA Planning, regardless of whether a cell tower Use Permit request is for a standard big tower, a classic colocation, a (new) small facilities request, a small facilities colocation, a distributed antennas system (DAS), or even a Section 6409(a)/eligible facilities request, the application form add-on sections were exactly the same.

Moreover, the form had no provisions to track any of the four current FCC shot clocks (two at the time of the application), or to manage the FCC's unique application processing rules that determine the start time for an application's processing clock (not the jurisdiction). The cell tower add-on to the application form also did not account for FCC "one-pass" rules that permit jurisdictions just one short window to identify *all* errors for a cell tower application after submission.⁵

Adjusting and processing a cell tower application for all of these differences was (and is) simply done ad hoc by each planner. This can happen only if that planner understands the different applicable conditions.

The Civil Grand Jury concluded that using an application with "stale" or out of date wireless communications facility add-on elements increased planner confusion. This condition also denied the planner currently available, and essential, information that could have given the planner more situational awareness of what could and could not be adjusted in processing PLN 180317. The Civil Grand Jury further concluded that this limited technical experience could have been overcome or lessened if the planner had access to a consultant to help review and to advise on technical issues for the Application.

⁵ FCC 47 CFR Part II. Third Report and Order.(Oct.15, 2018). paras 44-76 pp.51873-78

External Expertise

Unlike many jurisdictions, Monterey County wireless code (MCC 21.64.310) does not include provisions for planners to request external consultants to aid on technical issues or challenges *at applicant expense*. The Civil Grand Jury noted that RMA Planning has directly engaged consultants under certain circumstances; but in response to Civil Grand Jury questions, some RMA personnel seemed surprised that, as a matter of approval conditions or even in the local code for some jurisdictions, RF engineers or similar consultants for wireless communications facilities issues could be planned for and provided at applicant expense.

The Civil Grand Jury determined that for PLN 180317 no external contractor/expert supported the review of this application. Also, if an RMA planner had required external technical support, it would be an extra cost, and one not able to be passed to the applicant while processing the application.

The Civil Grand Jury concluded that, at the time of the Application, RMA planner high work volume, plus the complex nature of the (cell tower) requirements, plus an uneven understanding by planners of the range of FCC and state policies concerning cell towers, local character and aesthetics, were significant factors that contributed to the approval of a cell tower design and location that remains unacceptable to most if not all of the Bryson Hesperia Community.

G. RMA Planning Managers (F12)

RMA Planning managers were identified earlier in this report as a second point of failure (for the LUAC issue), and for their suboptimal decision in assigning PLN 180317.

However, this report also noted their professionalism, when they seized the initiative to turn the wrongly placed tower into a teachable moment. They also must be credited for being resilient and sensitive to community feedback on the Application in another way.

As was mentioned in preceding sections, when RMA Planning managers met with local residents to discuss the Hesperia Road cell tower, those managers agreed that they

had mistakenly failed to pass the Application to the LUAC. These managers also offered some technical considerations that the community could consider for future applications for cell towers in the area. They also offered to try and work with the applicant to adjust the tower's appearance to make it more appealing, or less unappealing, to the community.

Local residents interviewed by the Civil Grand Jury all stated their appreciation for the opportunity to contact and dialogue with RMA Planning managers. However, these managers' advice, and the options they proffered to that community were viewed as technical and somewhat confusing. The practical value of the suggestions provided was questioned by some. In the end, the cell tower was never improved or changed at all.

Even so, RMA Planning managers still had some outreach actions ongoing with that South County community while this Civil Grand Jury investigation was being conducted.

On the other hand, the Civil Grand Jury investigation also revealed that these RMA Planning managers personally accepted the challenges and complaints from that South County community. They returned to their offices and conscientiously applied technical and managerial skills internally to ensure that RMA planners would be better. . . or at least not get into the same situation again.

Quantifiable metrics for this aspect are unavailable but Civil Grand Jury interviews from all directions—managers, planners, and others, provided some qualitative observations. These interviews suggested that RMA Planning managers personally sought first to reshape planner views on how the LUACs are incorporated into RMA Planning actions. Second, RMA Planning managers also appear to have intensified their own scrutiny and attention to detail for reviewing new applications, particularly those concerning cell towers. Finally, they reportedly have used in-meeting and post-meeting discussions with their planners to sensitize planners to the importance of their actions, and the value of doing their work well.

The most visible manifestation of this effort was mentioned above—the RMA Planning managers' staff visit to the cell tower site. A second confirmation of this intent is

ongoing still. It is another cell tower permit (PLN 190347) requested for a different area in the South County community. The Civil Grand Jury reviewed the process being applied to that application and noted that this new application already has gone to the SC LUAC for review. RMA Planning processing steps were found to be methodical if not timely. Yet a careful planner review of all elements, including the proposed alternative site, seems to characterize that application so far. RMA planning managers and the planners should be recognized for moving forward from this initial, regrettable Application situation. Their efforts to apply higher standards and to stress community-focused service in their complex work is an important measure to reassure our community that the manner in which RMA Planning processed PLN 180317 was an unfortunate exception.

H. Investigation Final Comment and Recommendations

This Civil Grand Jury investigation report concludes with comment and 11 recommendations. The failures of PLN 180317 to deliver a cell tower to an appropriate site in South County, or to seek any public support for that tower, was an avoidable outcome due to a breakdown in the standards of the RMA Planning permit process. However, two aspects lessen this otherwise defective result.

First, future towers in the South County area will have better attention, an inclusive process, and wise community input. Second, the Bryson Hesperia locale has more wireless connectivity today. This may be a bitter thought to some right now, but it also may be of vital help to both residents and travelers, who may find themselves in need of assistance.

FINDINGS

F1: The “gap-in-service” nature of this cell tower Use Permit request meant that a facility in some location in this South County area was required to be approved in order to comply with 47 U.S. Code §332. (c)(7)(b)(ii)).

- F2: The difference between the Board of Supervisors' Resolution 15-043 No.7 April 28, 2015 use of the name "Bradley-Parkfield LUAC" and the Monterey County official Website use of the name "South County LUAC" for the same LUAC, created confusion that contributed to an RMA planner's misunderstanding about the South County LUAC.
- F3: The RMA Planning draft resolution and briefing for the Application both inaccurately asserted that (1) South County had no LUAC, and (2) that the Application did not need to be sent to the LUAC for review. These errors denied a required hearing and stifled public voice on design and local considerations for a large, visible project.
- F4: The Application's one-sentence dismissal of the alternative site, *"Unfortunately, due to the mountainous terrain access and road constraints the proposed site was not physically feasible for the construction of the proposed tower"* was incorrect. As a result, a constrained and inappropriate site selection was approved.
- F5: The RMA Planning public hearing notices for this project complied with State and County code, but were structurally ineffective in providing the local community with reasonable awareness of the significant project being proposed for their South County community.
- F6: The approved cell tower failed to meet multiple site and design conditions of MCC 21.64.310 including:
E.2 (has local citizen input on impact and alternative sites),
H.1a (preserve visual character, aesthetic value of parcel and surrounding land),
H.1c (not sited to create clutter & negatively affect specific views),
H.1d (designed to minimize visual impact),
H.1e (screened from any public viewing areas),
H.2d (designed to mitigate potentially significant adverse visual impacts), and
J.3 (complies with all applicable requirements of 21.64.310).

As a result of these multiple failures, this application did not meet a required finding for Use Permits as listed in MCC 21.74.050.B.1 (will not be...detrimental or injurious to property and improvement in the neighborhood.) and should not have been approved.

- F7: RMA planners were not diligent or accurate in how they determined, validated, and used certain facts, descriptive information, and technical data in the Application. This damaged the credibility of the Application and undermined local trust in the competence and the fairness of RMA Planning.
- F8: RMA Planning staff's limited expertise in wireless communications facilities' policies, regulations, and rules, plus RMA planner confusion on the applicability of County standards for aesthetics and visual character, were contributing factors to the siting and design of the cell tower in a manner unacceptable to the Bryson Hesperia Community.
- F9. Monterey County wireless communications code (MCC 21.64.310) lacks provisions to permit staff to secure outside experts, at applicant expense, when needed. This code omission limited planner resources and flexibility to overcome the technical challenges with this application. It reduced RMA Planning staff's ability to process the Application in a thorough, professional manner.
- F10: RMA Planning's site visit procedures for planners did not adequately account for area and community differences in the County. They also were not formalized. Planner site visits at the time of this application did not require any pre-orientation to highlight area-specific factors. These shortfalls reduced RMA planners' ability to understand actual conditions, effects, and the significance of the Application on the South County community.
- F11: RMA Planners' high work volume, plus the complex nature of processing a cell tower application, also were significant contributing factors to the siting and design of the cell tower in a manner unacceptable to the Bryson Hesperia Community.

- F12: The wireless communications facility supplemental add-on portions to RMA Planning's land use development application form were out of date. These add-ons lacked essential, contemporary elements to account for current wireless communications facility types, new FCC application handling requirements, FCC shot clocks, and FCC shot clock tracking/ tolling methods. This increased planner confusion and created a lack of information needed to facilitate planner processing of the Application in a thorough and professional manner.
- F13: RMA Planning managers displayed a high degree of internal responsiveness in reaction to the August 28, 2019 meeting in South County about the cell tower. Their subsequent actions were not visible to the community, but represented a quiet, positive example of professional and effective responsiveness to the community's concerns.

RECOMMENDATIONS

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

- R1: The RMA Services Manager should review and improve the RMA Current Planning division's work practices for RMA planners and Planning managers. Critical thinking, attention to detail, and higher professional standards must be imbued into the RMA Planning process. When County Code directs higher levels of decision making, RMA Planning should require assigning higher level, more experienced planners and higher-level supervisors to prepare and review those applications. (F3, F7) **This review should be completed no later than 90 days after the publication of this report.**

- R2: The Director of RMA should investigate whether the erroneous description of PLN 180317 alternative site's conditions, as provided to RMA Planning in support of that application, constituted "false material information," as the term is used in Monterey County Code 21.70.070 (Revocation). Director RMA should then determine if action in accordance with that code is appropriate or necessary for PLN 180317. (F4) **This investigation and determination should be completed no later than 90 days after the publication of this report.**
- R3: The Board of Supervisors should revise the Resolution that establishes and provides guidance to the County Land Use Advisory Committees (LUAC), the "LUAC Guidelines," to update Exhibit B. Stop using the "Bradley-Parkfield" LUAC name and start using the "South County" LUAC name. This will accurately reflect the change that was made to that LUAC in August 2008 and implemented in January 2009. (F2, F3) **This revision should be completed no later than six months after the publication of this report.**
- R4: The Board of Supervisors should revise Monterey County Code, to include a set of *Design Guidelines* that empower planners and decision makers to make land use decisions that comply with federal and state regulations, meet applicant needs, yet can still preserve Monterey County's character in rural and suburban environments. Design Guidelines should be both developmental standards and criteria for character and aesthetics. The Design Guidelines should be applicable to both wireless communications facilities and a wide range of other infrastructure developments. The Design Guidelines should augment existing Monterey County code, including Monterey County Code 21.64.310 (Wireless Communication Facilities). (F6) **This revision should be completed no later than 24 months after the publication of this report.**
- R5: The RMA Services Manager should develop explicit guidance to ensure public hearing noticing for significant projects in Monterey County's rural environments include other means in addition to those listed in Monterey County Code 21.70.040.A (Public Notice Required). This guidance should identify the

appropriate social media and local micro-resources that are active in the rural community where a significant project is planned. (F5) **This guidance should be completed and operational no later than 90 days after the publication of this report.**

- R6: The Board of Supervisors should revise Monterey County Code 21.70.040.A (Public Notice Required) to include the following provision from California Government Code Section 65091(A)(5)(c): "In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable." (F5) **This revision should be completed no later than 24 months after the publication of this report.**
- R7: The RMA Services Manager should develop explicit guidance to encourage and support applicant-sponsored town halls or orientations for rural communities where significant projects are planned. These events should be in advance of, or early into the application process. (F5) **This guidance should be completed and operational no later than 60 days after the publication of this report.**
- R8: The RMA Services Manager should revise the RMA land use request application supplemental add-on for wireless communications facilities. The revision should account for the different types of facilities, the current rules for accepting and correcting incomplete applications, and add provisions to identify and track the appropriate shot clock in the application --as an automated ongoing function. (F12) **This guidance should be completed and operational no later than 12 months after the publication of this report.**
- R9: The Board of Supervisors should revise Monterey County Code 21.64.310 (Wireless Communication Facilities) to include a provision that permits County staff to secure outside experts, at applicant expense, to support technical considerations or issues attendant to processing of wireless communications facilities when required. (F8, F9) **This revision should be completed no later than 24 months after the publication of this report.**

R10: The Board of Supervisors should revise Monterey County Code 21.64.310 (Wireless Communication Facilities) to include a provision that requires a post-operational RF-EME survey to be conducted by a certified RF engineer selected by the County but at applicant expense, when any wireless communications facility first becomes operational or has its Use Permit renewed. (F8, F9) **This revision should be completed no later than 24 months after the publication of this report.**

R11: The RMA Services Manager should develop a planners' training and operations standard operating procedure (SOP) for RMA Current Planning division, supplemental to any County or RMA employee handbook. This SOP should articulate (1) required planner and staff tasks and coordination, (2) required standards of performance, (3) division routines and site visit procedures, (4) planner-specific professional knowledge goals, and (5) note funded and optional planner-specific training and professional development opportunities. (F7, F10, F11) **This guidance should be completed and operational no later than 12 months after the publication of this report.**

REQUIRED RESPONSES

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

- Monterey County Board of Supervisors: respond to All Findings and Recommendations within 90 days.

INVITED RESPONSES

- The Director of Monterey County RMA: Respond to F4 and R2
- The Monterey South County LUAC: Respond to F2-F6 and R2, R3, R5, R6, R7

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

APPENDICES

- A. PLN 180317 Report Package (abridged)
- B. Final RF EME Report for PLN 180317
- C. LUAC Guidelines (abridged)
- D. APN and Topographic Maps of Primary and Alternative sites
- E. Photo Credits

APPENDIX A

**THIS APPENDIX INCLUDES ONLY
ABRIDGED PORTIONS OF DOCUMENTS.**

**PLEASE REFER TO ORIGINAL SOURCES
FOR COMPLETE COPIES OF ALL
DOCUMENTS**

APPENDIX A - STAFF REPORT FOR PLN 180317



Monterey County Zoning Administrator

Agenda Item No. 1

Legistar File Number: ZA 18-066

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

October 25, 2018

Introduced: 10/15/2018

Current Status: Agenda Ready

Version: 1

Matter Type: ZA

PLN180317 - ZAMORA (AT&T WIRELESS)

Public hearing to consider Use Permit to allow the installation of a 120-foot tall wireless communication facility disguised as Eucalyptus tree.

Project Location: 76310 Hesperia Road, Bradley (Assessor's Parcel Number 424-051-065-000), South County Area Plan

Proposed CEQA action: Exempt per 15303 of the CEQA Guidelines construction and location of limited numbers of new, small facilities or structures.

RECOMMENDATION:

It is recommended that the Zoning Administrator:

- a) Find the project in the installation of a new wireless communication facility, which qualifies as a Class 3 Categorical Exemption per Section 15303 of the CEQA Guidelines (New Construction or Conversion of Small structures), and there are no exceptions pursuant to Section 15300.2; and
- b) Approve a Use Permit to allow the installation of a 120-foot tall wireless communication facility disguised as Eucalyptus tree, and associated equipment consisting of twelve (12), six foot tall panel antennas, twenty two (22) remote radio units, four (4) DC surge compressors, **one (1) microwave dish antenna**, and one (1) back-up Diesel Generator with a 900 square foot leased area enclosed by a seven foot high wooden fence.

The attached resolution includes findings and evidence for consideration (**Exhibit C**). Staff recommends that the Zoning Administrator adopt the resolution approving PLN180317 subject to nine (9) conditions of approval.

PROJECT INFORMATION:

Agent: Tom Johnson, AT&T Wireless

Property Owner: Gloria J & Jose L Zamora

APN: 424-051-065-000

Parcel Size: 44.7 acres

Zoning: RG/40 (Rural Grazing/40-acre minimum)

Plan Area: South County Area Plan (Non-Coastal Advisory Committee)

Flagged and Staked: No

SUMMARY:

The applicant (Tom Johnson), representing AT&T Wireless, is requesting approval of a Use Permit to construct and operate a wireless communication facility camouflaged as a 120-foot mono pole eucalyptus tree, and associated equipment. The proposed AT&T wireless facility will be located at the northwest boundary of the subject parcel lot Access Parcel Number 424-051-065-000 west of

Hesperia Road and will include a 900-square foot leased area enclosed by a seven foot high wooden fence.

AT&T's objective in locating a wireless communication facility on this site is to provide improved in-building and in-transit wireless coverage. The proposed Facility is necessary to close significant service coverage gap areas roughly bounded along Hesperia Road (**Exhibit E**). The proposed facility will provide coverage to the surrounding residential areas, including the agricultural areas that are present within this zone that currently have no AT&T mobile service.

DISCUSSION

Setting:

The property site currently has an existing single-family residential trailer structure on a 44.7+ acre(s) lot surrounded by grazing fields and open space lands. The project site is located on the northeast corner of the lot adjacent to Hesperia Road. The following table below identifies the land uses immediately surrounding the project site.

The project setting can also be seen in the following chart below for this Project Analysis:

Surrounding Land-Uses

Project Site	Land Use	Zoning	General Plan
North	Single-family unit/Open space	RG-40	Rural Grazing
South	Open space	RG-40	Rural Grazing
East	Single-family/Open space	RG-40	Rural Grazing
West	Single-family unit/Open space	RG-40	Rural Grazing

Once constructed and operational, the proposed facility will provide 24-hour service to customers seven (7) days a week. Apart from initial construction activity, an AT&T technician will only be servicing the facility on a periodic basis. It is reasonable to expect that routine maintenance/inspection of the facility will occur about once a month during working hours of 8 a.m. to 5 p.m. Monday through Saturday. Beyond this intermittent service, AT&T requires 24-hour access to the proposed facility to ensure that technical support is immediately available in the event of an emergency or natural disaster.

Location and Alternative Site Analysis:

The applicant evaluated an alternative site located at a 2570 Bryson Road, Bradley. Unfortunately, due to the mountainous terrain access and road constraints the proposed site was not physically feasible for the construction of the proposed tower. Therefore, the applicant selected the proposed location at 76310 Hesperia Road recommended by AT&T's Radio Frequency Engineer as the most appropriate site to accommodate their proposed wireless communication facility as described in the applicant's Project Description (**Exhibit D**).

Co-Location

There are no other wireless communication facilities stations at the site or nearby vicinity of the proposed project site. The proposed facility has been designed in a manner that will structurally accommodate additional antennas, and the applicant has submitted a statement to allow co-location in the future (**Exhibit D**).

Visual Resources and Design:

The site is relatively flat and has been historically been used for agricultural purposes. There is no designated public viewing area, scenic corridor, or any identified environmentally sensitive area or resources. As described, the applicant evaluated the feasibility of locating the proposed facility at nearby existing facilities, but could not provide the necessary coverage for the identified proposed coverage area. Generally, a wireless communications facility is not a use that is inherently compatible with the character of the surrounding rural grazing/ agricultural uses; however, the proposed project is a stealth design that would blend with the surrounding mixture of tall mature oak and eucalyptus trees.

The applicant submitted photo simulations (**Exhibit G**) of the standard monopole design as well as a mono-eucalyptus tree. Both options are attached to the staff report. The basic monopole design is visually obtrusive in comparison to mono-eucalyptus tree disguised blending with the existing rural setting and surrounding areas. As conditioned, the applicant will be required to provide specifications on the mono-eucalyptus to ensure that it is as natural appearing as possible. Where visible, the mono-eucalyptus would appear in character with the surrounding mature trees and would not be easily recognizable as a wireless communications facility.

As indicated on the Applicant's Project Information (**Exhibit D**); the project is proposing the development of a 120-foot tall wireless communication facility camouflaged mono pole eucalyptus tree. The proposed project complies with the Monterey County General Plan, Rural Grazing Ordinance (RG-40), Wireless Facilities Design Guidelines (Findings), and other development standards and design guidelines.

Radio Frequency

The applicant has submitted a Radio Frequency compliance report prepared by EBI Consulting Engineers on June 15, 2018 (**Exhibit F**). The report finds that the facility will comply with the Federal Communications Commission (FCC) and Occupational Safety and Health Administration (OSHA) standards for limiting public exposure to radio frequency energy, including the installation of all proper required (FCC) signage and/or barriers. The site is adequate for the proposed development of the wireless communication facility and the applicant has demonstrated that it is the most adequate for the provision of services as required by the (FCC).

CEQA EXEMPTION

The project is exempt from environmental review pursuant to Section 15303 of the California Environmental Quality Act Guidelines. The project is a small structure, which qualifies for a Class 3 Categorical Exemption per Section 15303 of the CEQA Guidelines and does not meet any of the exceptions under Section 15300.2. The project involves the installation to allow the installation of a 120-foot tall wireless communication facility disguised as Eucalyptus tree. Therefore, the proposed development is consistent with the parameters of this exemption. The technical reports prepared for the project do not identify any potential significant or cumulative impacts, and no evidence of significant adverse environmental effects was identified during staff review of the development application.

RECOMMENDATION

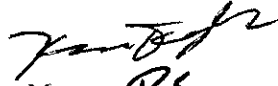

Staff recommends the Zoning Administrator approve the project. This recommendation is supported by the findings and evidence provided and conditions of approval in (**Exhibit C**).

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

- Environmental Health Bureau
- RMA-Public Works
- RMA-Environmental Services
- Water Resources Agency
- South County Fire Protection District

The proposed project was not referred to a Land Use Advisory Committee because there is no Land Use Advisory Committee for the South County Area.

Prepared by: Kenny Taylor, Associate Planner, x5096 
Reviewed by: Brandon Swanson, RMA Planning Services Manager 
Approved by: John M. Dugan, FAICP, RMA Deputy Director of Land Use and Community Development

The following attachments are on file with the RMA:

- Exhibit A - Project Data Sheet
- Exhibit B - Vicinity Map
- Exhibit C - Draft Resolution including:
 - Draft Conditions of Approval
 - Project Plans
- Exhibit D - Project Description/Coverage Justification
- Exhibit E - Site Coverage Map
- Exhibit F - Radio Frequency Compliance Report
- Exhibit G - Photo Simulations

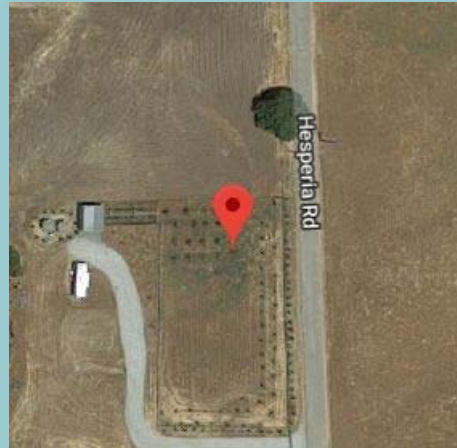
cc: Front Counter Copy; Zoning Administrator; Brandon Swanson, RMA Services Manager, Att&t Wireless, Agent; Tom Johnson, Owner; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Project File PLN180317

Radio Frequency – Electromagnetic Energy (RF-EME) Compliance Report

Site No. CCL03702
MRSFR038074, MRSFR035291, MRSFR030966
Zamora Property
76310 Hesperia Road
Bradley, California 93426
Monterey County
35.815161; -121.057758 NAD83
Monotree

The proposed AT&T installation will be in compliance with FCC regulations upon proper installation of recommended signage and/or barriers.

EBI Project No. 6218004453
June 15, 2018



Prepared for:
AT&T Mobility, LLC
c/o Vinculum
575 Lennon Lane, Suite 125
Walnut Creek, CA 94598

Prepared by:
 **EBI Consulting**
environmental | engineering | due diligence

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APPENDICES

- Appendix A Personnel Certifications**
- Appendix B Compliance/Signage Plan**

Personal Communication (PCS) facilities used by AT&T in this area operate within a frequency range of 700-1900 MHz. Facilities typically consist of: 1) electronic transceivers (the radios or cabinets) connected to wired telephone lines; and 2) antennas that send the wireless signals created by the transceivers to be received by individual subscriber units (PCS telephones). Transceivers are typically connected to antennas by coaxial cables.

Because of the short wavelength of PCS services, the antennas require line-of-site paths for good propagation, and are typically installed above ground level. Antennas are constructed to concentrate energy towards the horizon, with as little energy as possible scattered towards the ground or the sky. This design, combined with the low power of PCS facilities, generally results in no possibility for exposure to approach Maximum Permissible Exposure (MPE) levels, with the exception of areas directly in front of the antennas.

2.0 AT&T RF EXPOSURE POLICY REQUIREMENTS

AT&T's RF Exposure: Responsibilities, Procedures & Guidelines document, dated October 28, 2014, requires that:

1. All sites must be analyzed for RF exposure compliance;
2. All sites must have that analysis documented; and
3. All sites must have any necessary signage and barriers installed.

Pursuant to this guidance, worst-case predictive modeling was performed for the site. This modeling is described below in Section 3.0. Lastly, based on the modeling and survey data, EBI has produced a Compliance Plan for this site that outlines the recommended signage and barriers. The recommended Compliance Plan for this site is described in Section 4.0.

3.0 WORST-CASE PREDICTIVE MODELING

In accordance with AT&T's RF Exposure policy, EBI performed theoretical modeling using RoofView® software to estimate the worst-case power density at the site rooftop and ground-level and nearby rooftops resulting from operation of the antennas. RoofView® is a widely-used predictive modeling program that has been developed by Richard Tell Associates to predict both near field and far field RF power density values for roof-top and tower telecommunications sites produced by vertical collinear antennas that are typically used in the cellular, PCS, paging and other communications services. The models utilize several operational specifications for different types of antennas to produce a plot of spatially-averaged power densities that can be expressed as a percentage of the applicable exposure limit.

For this report, EBI utilized antenna and power data provided by AT&T, and compared the resultant worst-case MPE levels to the FCC's occupational/controlled exposure limits outlined in OET Bulletin 65. For this report, EBI utilized antenna and power data provided by AT&T and compared the resultant worst-case MPE levels to the FCC's occupational/controlled exposure limits outlined in OET Bulletin 65. The assumptions used in the modeling are based upon information provided by AT&T and information gathered from other sources. There are no other wireless carriers with equipment installed at this site.

Based on worst-case predictive modeling, there are no modeled exposures on any accessible rooftop or ground walking/working surface related to ATT's proposed antennas that exceed the FCC's occupational and/or general public exposure limits at this site.

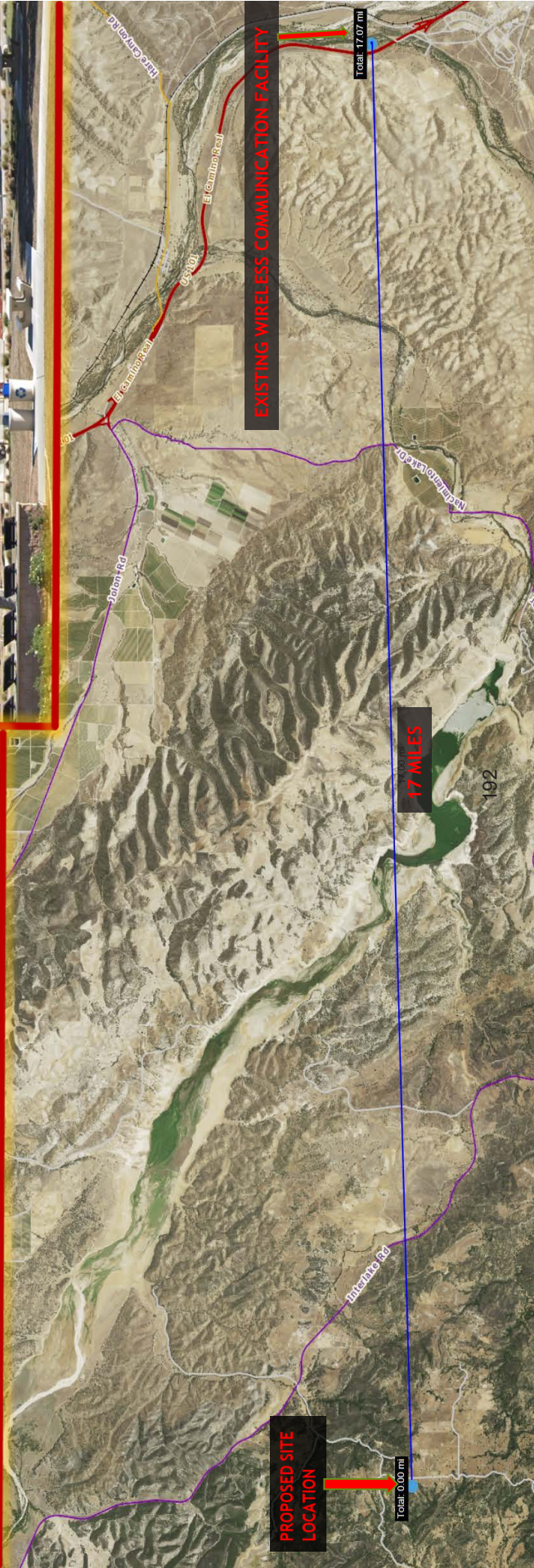
At the nearest walking/working surfaces to the AT&T antennas, the maximum power density generated by the AT&T antennas is approximately 3.50 percent of the FCC's general public limit (0.70 percent of the FCC's occupational limit). The composite exposure level from all carriers on this site is

approximately 3.50 percent of the FCC's general public limit (0.70 percent of the FCC's occupational limit) at the nearest walking/working surface to each antenna. Based on worst-case predictive modeling, there are no areas at ground level related to the proposed AT&T antennas that exceed the FCC's occupational or general public exposure limits at this site. At ground level, the maximum power density generated by the antennas is approximately 3.20 percent of the FCC's general public limit (0.64 percent of the FCC's occupational limit).

A graphical representation of the RoofView® modeling results is presented in Appendix B. It should be noted that RoofView® is not suitable for modeling microwave dish antennas; however, these units are designed for point-to-point operations at the elevations of the installed equipment rather than ground-level coverage. Based on AT&T's RF Exposure: Responsibilities, Procedures & Guidelines document, dated October 28, 2014, microwave antennas are considered compliant if they are higher than 20 feet above any accessible walking/working surface. There are no microwaves installed at this site.

Co-location

EXISTING WIRELESS COMMUNICATION FACILITY



(FINAL) RESOLUTION FOR PLN 18-0317

Before the Zoning Administrator in and for the County of Monterey, State of California

In the matter of the application of:

ZAMORA (AT&T MOBILITY) (PLN180317)

RESOLUTION NO. 18 - 061

Resolution by the Monterey County Zoning
Administrator:

- 1) Find the project is the installation of a new wireless communication facility, which qualifies as a Class 3 Categorical Exemption per Section 15303 of the CEQA Guidelines (New Construction or Conversion of Small structures), and there are no exceptions pursuant to Section 15300.2; and
- 2) Approve a Use Permit to allow the installation of a 120-foot tall wireless communication facility disguised as Eucalyptus tree, and associated equipment consisting of twelve (12), six foot tall panel antennas, twenty two (22) remote radio units, four (4) DC surge compressors, one (1) microwave dish antenna, and one (1) back-up Diesel Generator within a 900 square foot leased area enclosed by a seven foot high wooden fence. [PLN180317, Zamora (AT&T Mobility), 76310 Hesperia Road, South County Area Plan (Non-Coastal Advisory Committee) (APN: 424-051-065-000)]

The Zamora (AT&T Mobility) application (PLN180317) came on for public hearing before the Monterey County Zoning Administrator on October 25, 2018. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

FINDINGS AND EVIDENCE

1. **FINDING:** **PROJECT DESCRIPTION** – The proposed project is a Use Permit to allow the installation of a 120-foot tall wireless communication facility disguised as Eucalyptus tree.
EVIDENCE: The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN180317.
2. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the 2010 Monterey County General Plan;
 - South County Area Plan;

- Monterey County Zoning Ordinance (Title 21)

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located at 76310 Hesperia Road, South County APN 424-051-065-000), South County Area Plan. The parcel is zoned RG/40, which allows wireless communication facilities with an approved Use Permit. Therefore, the project is an allowed land use for this site.
- c) The project is located on a flat parcel which requires minimal grading. The project will not result in any impacts to biological or archaeological resources.
- d) The project planner conducted a site inspection on August 9, 2018 to verify that the project on the subject parcel conforms to the plans listed above.
- e) The project meets the intent of the Wireless Communication Ordinance in Monterey County Code as the monopole will provide collocation for future wireless sites and will minimize the potential for proliferation of individual wireless facilities.
- f) The Zoning Administrator is the appropriate authority to hear and decide new wireless communication facilities that have no significant adverse visual impact from any public common viewing area, pursuant to Section 21.64.310. of Monterey County Code.
- g) The project was not referred to a Land Use Advisory Committee (LUAC) for review because this project is located within the South County Area Plan, which does not have an established Land-Use Advisory Committee.
- h) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN180317.
- i) At the October 25th hearing, the Zoning Administrator gave RMA Planning Staff leave to approve alterations to the project as substantially conforming as long as there was no tree removal, ESHA disturbance, development on slopes, or other issues that would require additional entitlement. This direction was given with the intent of allowing staff to work with the applicant to possibly redesign the project, in an effort to move the tower farther back from Hesperia Road.

3. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA- Planning, South County Fire Protection District, Parks, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
 - b) Staff identified no potential impacts to Biological Resources, Archaeological Resources, Soil/Slope Stability, or environmental constraints that would make the site unsuitable for the proposed wireless communication facility.

provisions for wireless facilities. The proposed facility will meet the FCC guidelines.

- c) The development meets all applicable regulations for the establishment of wireless communications facilities (Chapter 21.64.310, Monterey County Code).
 - The Wireless Communication Facility will not be visible from the highway and surrounding roads. The proposed facility is within the grazing agricultural fields approximately 17 miles west of Highway 101. The distance combined with the Eucalyptus design tree will minimize visual impacts. Pursuant to the 2010 General Plan and the South County Area Plan, the property is not located in a designated visually "sensitive" area, along a scenic corridor, or identified environmentally sensitive area.
 - Other than height, the project is consistent with the Site Development Standards of the "F" Zoning District. The allowable height maximum of the area is 30 feet. The entitlement, a Use Permit, allows the proposed facility to exceed the height of the Rural Grazing Zoning District, upon approval by the Zoning Administrator.
- d) The project meets all the minimum requirements of the Chapter 21.32 (RG-40) Zoning including County Code Section 21.64.310 Wireless Telecommunication Facilities as identified as part of the Conditions of Approval. Conditions have been incorporated that would reduce the visual impact and include further review of colors and exterior lighting, modifications in the event of technological advances, and maintenance and restoration of the site.
- e) The project is consistent with Chapter 21.86 (Airport Approaches Zoning) and does not require review by the Monterey County Airport Land Use Commission. This project does not affect any aircraft zones identified in Section 21.86.040 of MCC and the proposed height is within limitations outlined in Section 21.86.060 MCC.

- 8. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Planning Commission.
EVIDENCE: a) Section 21.80.040 B of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Planning Commission.

∥

located on a hazardous waste site, near a scenic highway or historical resource. The project would not contribute to a cumulative impact of successive projects as there are no other wireless communication facilities in proximity to this project site.

d) See preceding findings and evidence.

7. **FINDING:** **WIRELESS COMMUNICATION FACILITIES** – The project is consistent with the required findings for the development of a wireless communication facility:

- 1) The project will not significantly affect any designated public viewing area, scenic corridor or any identified environmentally sensitive area or resources;
- 2) The site is adequate for the proposed development of the wireless communication facility and the applicant has demonstrated that it is the most adequate for the provision of services as required by the Federal Communications Commission;
- 3) The proposed wireless communication facility complies with all the applicable requirements of Monterey County Code section 21.64.310;
- 4) The subject property on which the wireless communication facility is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other provisions of Title 21 and that all zoning violation abatement costs, if any, have been paid, and
- 5) The proposed telecommunication facility will not create a hazard for aircraft in flight.

EVIDENCE: a) The development meets all applicable regulations of the wireless communications facilities Chapter. The project is sited in the least visually obtrusive location (Section 21.64.310.C.4, Zoning Ordinance). The area consists of and is predominantly surrounded by agricultural uses such as grazing open lands and scattered residential dwellings accessory structures such as barns. Due to the project location, surrounding rugged terrain, and existing mature trees, the proposed monopole will not be visible from Highway 101, County scenic roads, designated scenic areas, or critical viewsheds. The proposed facility is within the grazing agricultural fields approximately 17 miles west of Highway 101. Pursuant to the 2010 General Plan and the South County Area Plan, the property is not located in a designated visually "sensitive" area, along a scenic corridor, or identified environmentally sensitive area. The proposed monopole is consistent with the visual integrity of its surroundings because it is the most simplistic design and is the property owner's preferred design.


b) The applicant, AT&T Wireless, has provided coverage maps (**Exhibit E**) which identifies a coverage gap 3 ½ mile radius coverage gap within the vicinity of Bryson Hesperia Road and Hesperia Road. The coverage area currently provides good outdoor service, but no indoor coverage. The proposed facility will improve the existing coverage to provide good In-Building, In-Transit, and Outdoor services within the immediate area. The proposed service goals are consistent with FCC

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Zoning Administrator does hereby:

1. Find the project is the installation of a new wireless communication facility, which qualifies as a Class 3 Categorical Exemption per Section 15303 of the CEQA Guidelines (New Construction or Conversion of Small structures), and there are no exceptions pursuant to Section 15300.2;
2. Approve a Use Permit to allow the installation of a 120-foot tall wireless communication facility disguised as Eucalyptus tree, and associated equipment consisting of twelve (12), six foot tall panel antennas, twenty two (22) remote radio units, four (4) DC surge compressors, one (1) microwave dish antenna, and one (1) back-up Diesel Generator within a 900 square foot leased area enclosed by a seven foot high wooden fence.

PASSED AND ADOPTED this 25th day of October, 2018.



Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE **OCT 26 2018**

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION / CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE [DATE] **NOV 06 2018**

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

APPENDIX B

Final RF EME Report for PLN 180317

APPENDIX B ABRIDGED VERSION OF FINAL RF-EME REPORT

(Please refer to original document for complete information)

Radio Frequency – Electromagnetic Energy (RF-EME) Site Audit (Post-Construction Monitoring)

USID# 175618
Site No. CCL03702
Zamora Property
76310 Hesperia Rd
Bradley, California 93426
Monterey County
35.815161; -121.057758 NAD83

EBI Project No. 6220000365
February 11, 2020



Prepared for:

AT&T Mobility, LLC
c/o Vinculums Services Inc
1200 Del Paso Rd, Suite 150
Sacramento, CA 95834

Prepared by:



EXECUTIVE SUMMARY

Purpose of Report

EnviroBusiness Inc. (dba EBI Consulting) has been contracted by AT&T Mobility, LLC to conduct radio frequency electromagnetic (RF-EME) monitoring for AT&T Site CCL03702 located at 76310 Hesperia Rd in Bradley, California to determine RF-EME exposure levels from wireless communications equipment installed at this site. As described in greater detail in Section 2.0 of this report, the Federal Communications Commissions (FCC) has developed Maximum Permissible Exposure (MPE) Limits for general population exposures and occupational exposures. This report summarizes the results of RF-EME monitoring in relation to relevant FCC RF-EME compliance standards for limiting human exposure to RF-EME fields.

EBI field personnel visited this site on February 4, 2020. This report contains a summary of the RF EME analysis for the site, including the following:

- Antenna Inventory
- Site Photographs
- Site Plan with antenna locations
- Graphic representation of onsite monitoring results

This document addresses the emissions and signage of AT&T's transmitting facilities independently. Emission readings included in this report are cumulative of all carriers on site. However, this report does not address other carrier compliance.

Statement of Compliance

An installation is considered out of compliance with FCC regulations if, in an area that exceeds the FCC limits, that installation's contribution is greater than 5% of the applicable MPE and there are no mitigation measures in place.

Based on the FCC criteria, the results of the RF emissions survey indicate that the readings do not exceed applicable FCC MPE limits.

An installation is considered out of compliance with FCC regulations if, in an area that exceeds the FCC limits, that installation's contribution is greater than 5% of the applicable MPE and there are no mitigation measures in place.

AT&T Recommended Signage/Compliance Plan

AT&T's RF Exposure: Responsibilities, Procedures & Guidelines document, dated October 28, 2014, requires that:

1. All sites must be analyzed for RF exposure compliance;
2. All sites must have that analysis documented; and
3. All sites must have any necessary signage and barriers installed.

Site compliance recommendations have been developed based upon protocols presented in AT&T's RF Exposure: Responsibilities, Procedures & Guidelines document, dated October 28, 2014, additional guidance provided by AT&T, EBI's understanding of FCC and OSHA requirements, and common industry practice. Barrier locations have been identified (when required) based on guidance presented in AT&T's

RF Exposure: Responsibilities, Procedures & Guidelines document, dated October 28, 2014. The following signage was installed at this site:

- Yellow CAUTION 2B sign posted 9' AGL at the base of the monopole on the North and South side.

The signage installed at this site complies with AT&T's RF Exposure: Responsibilities, Procedures & Guidelines document and therefore complies with FCC and OSHA requirements. Barriers are not recommended on this site. More detailed information concerning site compliance recommendations is presented in Section 5.0 of this report.

SITE DESCRIPTION

This project involves twelve (12) wireless telecommunication antennas on a monotree in Bradley, California. There are three Sectors (A, B, and C) at the site, with four (4) antennas installed per sector. The Sector A antennas are oriented 30° from true north. The Sector B antennas are oriented 270° from true north. The Sector C antennas are oriented 150° from true north.

EBI conducted a site visit on February 4, 2020. At the time of the site visit, there were no other carriers observed at this site. Measurements were taken at ground level in the surrounding area. Appendix B contains site photographs taken on February 4, 2020 during the on-site survey. Appendix C presents a site plan indicating monitoring and antenna locations. Appendix E contains climate and site observations recorded during the site visit.

1.0 FEDERAL COMMUNICATIONS COMMISSION (FCC) REQUIREMENTS

The FCC has established Maximum Permissible Exposure (MPE) limits for human exposure to Radiofrequency Electromagnetic (RF-EME) energy fields, based on exposure limits recommended by the National Council on Radiation Protection and Measurements (NCRP) and, over a wide range of frequencies, the exposure limits developed by the Institute of Electrical and Electronics Engineers, Inc. (IEEE) and adopted by the American National Standards Institute (ANSI) to replace the 1982 ANSI guidelines. Limits for localized absorption are based on recommendations of both ANSI/IEEE and NCRP.

The FCC guidelines incorporate two separate tiers of exposure limits that are based upon occupational/controlled exposure limits (for workers) and general population/uncontrolled exposure limits for members of the general public.

Occupational/controlled exposure limits apply to situations in which persons are exposed as a consequence of their employment and in which those persons who are exposed have been made fully aware of the potential for exposure and can exercise control over their exposure. Occupational/controlled exposure limits also apply where exposure is of a transient nature as a result of incidental passage through a location where exposure levels may be above general population/uncontrolled limits (see below), as long as the exposed person has been made fully aware of the potential for exposure and can exercise control over his or her exposure by leaving the area or by some other appropriate means.

General population/uncontrolled exposure limits apply to situations in which the general public may be exposed or in which persons who are exposed as a consequence of their employment may not be made fully aware of the potential for exposure or cannot exercise control over their exposure. Therefore, members of the general public would always be considered under this category when exposure is not

employment-related, for example, in the case of a telecommunications tower that exposes persons in a nearby residential area.

Table I and Figure I (below), which are included within the FCC’s OET Bulletin 65, summarize the MPE limits for RF emissions. These limits are designed to provide a substantial margin of safety. They vary by frequency to take into account the different types of equipment that may be in operation at a particular facility and are “time-averaged” limits to reflect different durations resulting from controlled and uncontrolled exposures.

The FCC’s MPEs are measured in terms of power (mW) over a unit surface area (cm²). Known as the power density, the FCC has established an occupational MPE of 5 milliwatts per square centimeter (mW/cm²) and an uncontrolled MPE of 1 mW/cm² for equipment operating in the 1900 MHz frequency range. For the AT&T equipment operating at 850 MHz, the FCC’s occupational MPE limit is 2.83 mW/cm² and an uncontrolled MPE limit of 0.57 mW/cm². For the AT&T equipment operating at 700 MHz, the FCC’s occupational MPE limit is 2.33 mW/cm² and an uncontrolled MPE limit of 0.47 mW/cm². These limits are considered protective of these populations.

Table I: Limits for Maximum Permissible Exposure (MPE)				
(A) Limits for Occupational/Controlled Exposure				
Frequency Range (MHz)	Electric Field Strength (E) (V/m)	Magnetic Field Strength (H) (A/m)	Power Density (S) (mW/cm²)	Averaging Time [E]², [H]², or S (minutes)
0.3-3.0	614	1.63	(100)*	6
3.0-30	1842/f	4.89/f	(900/f ²)*	6
30-300	61.4	0.163	1.0	6
300-1,500	--	--	f/300	6
1,500-100,000	--	--	5	6
(B) Limits for General Population/Uncontrolled Exposure				
Frequency Range (MHz)	Electric Field Strength (E) (V/m)	Magnetic Field Strength (H) (A/m)	Power Density (S) (mW/cm²)	Averaging Time [E]², [H]², or S (minutes)
0.3-1.34	614	1.63	(100)*	30
1.34-30	824/f	2.19/f	(180/f ²)*	30
30-300	27.5	0.073	0.2	30
300-1,500	--	--	f/1,500	30
1,500-100,000	--	--	1.0	30

f = Frequency in (MHz)

* Plane-wave equivalent power density

Based upon protocols presented in AT&T's RF Exposure: Responsibilities, Procedures & Guidelines document, dated October 28, 2014, and additional guidance provided by AT&T, the following signage was installed on the site:

- Yellow CAUTION 2B sign posted 9' AGL at the base of the monopole on the North and South side.

5.0 SUMMARY AND CONCLUSIONS

EBI has prepared this Radiofrequency Emissions Compliance Report for telecommunications equipment installed at the site located at 76310 Hesperia Rd in Bradley, California.

The highest level of RF emissions measured within the facility compound was 0.7111% of the FCC's MPE limits based on the Occupational standard. Additionally, the highest level of RF emissions measured at ground level surrounding the structure was 2.2370% of the FCC's MPE limits based on the General Population standard. A controlled/occupational environment assumes that access to the facility is generally restricted to authorized personnel and facility management and members of the general public will not be able to access the wireless telecommunications facility.

The results of the RF emissions survey indicate that the levels of RF emissions exposure do not exceed applicable FCC MPE limits.

Signage was installed at the site as presented in Section 5.0. Posting of the signage brings the site into compliance with FCC rules and regulations and AT&T's corporate RF safety policies.

6.0 LIMITATIONS

This report was prepared for the use of AT&T Mobility, LLC. It was performed in accordance with generally accepted practices of other consultants undertaking similar studies at the same time and in the same locale under like circumstances. The conclusions provided by EBI are based solely on the information collected during the site visit and provided by the client. The observations in this report are valid on the date of the investigation. Any additional information that becomes available concerning the site should be provided to EBI so that our conclusions may be revised and modified, if necessary. This report has been prepared in accordance with Standard Conditions for Engagement and authorized proposal, both of which are integral parts of this report. No other warranty, expressed or implied, is made.

APPENDIX C

LUAC Guidelines (abridged)



APPENDIX C. LUAC GUIDELINES (ABRIDGED - SEE ORIGINAL DOCUMENT)

Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Upon motion of Supervisor Phillips, seconded by Supervisor Salinas and carried by those members present, the Board of Supervisors hereby:

Considered and:

- a. Found the consolidation of the North County-Inland and North County-Coastal Land Use Advisory Committees (LUAC) and revision of LUAC procedures is not a project under California Environmental Quality Act (CEQA) Guidelines;
- b. Adopted Resolution 15-103 consolidated the North County-Inland and North County-Coastal Land Use Advisory Committees; and
- c. Amended the Land Use Advisory Committee Procedures to reflect the consolidation. (North County Land Use Advisory Committees - REF150004/County of Monterey)

PASSED AND ADOPTED on this 28th day of April 2015, by the following vote, to wit:

AYES: Supervisors Phillips, Salinas and Potter
NOES: Supervisors Armenta and Parker
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 78 for the meeting on April 28, 2015.

Dated: April 29, 2015
File ID: RES 15-043

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

EXHIBIT 1
PROPOSED AMENDMENTS TO THE MONTEREY COUNTY LAND USE
ADVISORY COMMITTEE PROCEDURES

Monterey County Land Use Advisory Committee Procedures

(Adopted November 18, 2008; amended December 16, 2014)

The following procedures were adopted by the Board of Supervisors.

1. The purpose of a Land Use Advisory Committee (LUAC) is to:
 - a. Advise the Appropriate Authority by providing comments and recommendations on referred land use planning matters pursuant to the "Guidelines for Review of Applications" in **Exhibit A**.
 - b. Reflect the perspective of the local community with focus on neighborhood character, unique community site and conditions and potential local effects or contributions that would likely result from the implementation of a proposed project.
 - c. Perform such other review of land use issues as may be requested from time to time by the Planning Commission or the Board of Supervisors.
 - d. Provide a venue for project neighbors to provide input on proposed projects.
 - e. Identify concerns in response to staff-provided scope of review on neighborhood, community and site issues excluding regional impacts which are the purview of the Appropriate Authority.

2. Definitions:
 - a. "Appropriate Authority" means that person, official, or body designated to hear, grant, deny, modify, condition, revoke or otherwise act on permits required by County Zoning Ordinances.
 - b. "Brown Act" (a.k.a. Ralph M. Brown Act), as set forth in Section 54950 et seq. of the California Government Code, means the state open meeting law applicable to local government bodies.
 - c. "LUAC" means Land Use Advisory Committee.
 - d. "Planning Area" means geographic sub-regions of Monterey County established by the applicable General Plan, Area Plans and Local Coastal Program Land Use Plans (See **Exhibit B**).

EXHIBIT A**GUIDELINES FOR REVIEW OF MATTERS REFERRED TO LAND USE ADVISORY COMMITTEES BY THE APPROPRIATE AUTHORITY.**

The Land Use Advisory Committee (LUAC) shall review and make recommendations on land use issues only as specifically set out by the following guidelines:

1. **The applicable LUAC shall review projects that require the following:**
 - a) Development requiring CEQA review [Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report (EIR)]
 - b) Lot Line Adjustments involving conflicts (e.g.; modifications to Scenic Easements or Building Envelopes, Williamson Act, the Coastal Zone, etc.).
 - c) Variances.
 - d) **Design Approvals for projects subject to review by the Zoning Administrator or Planning Commission.**
2. The LUAC shall review any discretionary permit application for which the local area plan, land use plan, master plan, specific plan, or community plan requires review by a local citizens' committee.
3. **The LUAC shall review any discretionary permit application, and any land use matter that in the opinion of the Board of Supervisors, the Planning Commission, or Director of Planning, raises significant land use issues that necessitate review prior to a public hearing by the Appropriate Authority. The Director of Planning shall inform the Planning Commission of a Board of Supervisors' referral.**
4. **The LUAC shall focus recommendations on site design and local considerations.**

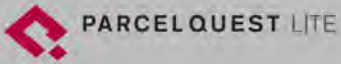
EXHIBIT B

PLANNING AREA	AREA PLAN	LUAC
Big Sur	Big Sur Land Use Plan	South Coast LUAC
		Big Sur LUAC
Cachagua	Cachagua Area Plan	Cachagua LUAC
Carmel	Carmel Area Land Use Plan	Carmel Unincorporated /Highlands LUAC
Carmel Valley	Carmel Valley Master Plan	Carmel Valley LUAC
Central Salinas Valley	Central Salinas Valley Area Plan	Chualar Neighborhood Design Review Committee
	Chualar Community Plan	
Coast	NONE	N/A
Del Monte Forest	Del Monte Forest Land Use Plan	Del Monte Forest LUAC
Fort Ord	Fort Ord Master Plan	N/A
Greater Monterey Peninsula	Greater Monterey Peninsula Area Plan	Greater Monterey Peninsula LUAC
Greater Salinas	Greater Salinas Area Plan	Spreckels Neighborhood Design Review Committee
	Boronda Community Plan	
North County, Coastal and Inland	North County Land Use Plan	North County – Coastal LUAC
	North County Area Plan	North County – Non-Coastal LUAC
	Moss Landing Community Plan	LUAC
	Pajaro Community Plan	
	Castroville Community Plan	Castroville LUAC
South County	South County Area Plan	Bradley-Parkfield LUAC
Toro	Toro Area Plan	Toro LUAC
Ag Lands	All	Agricultural Advisory Committee
AWCP	AWCP	Toro LUAC if Project meets criteria listed in Exhibit A
		Agricultural Advisory Committee

APPENDIX D

APN and Topographic
Maps of Primary and Alternative sites

PLN 180317 PRIMARY SITE (MAP)



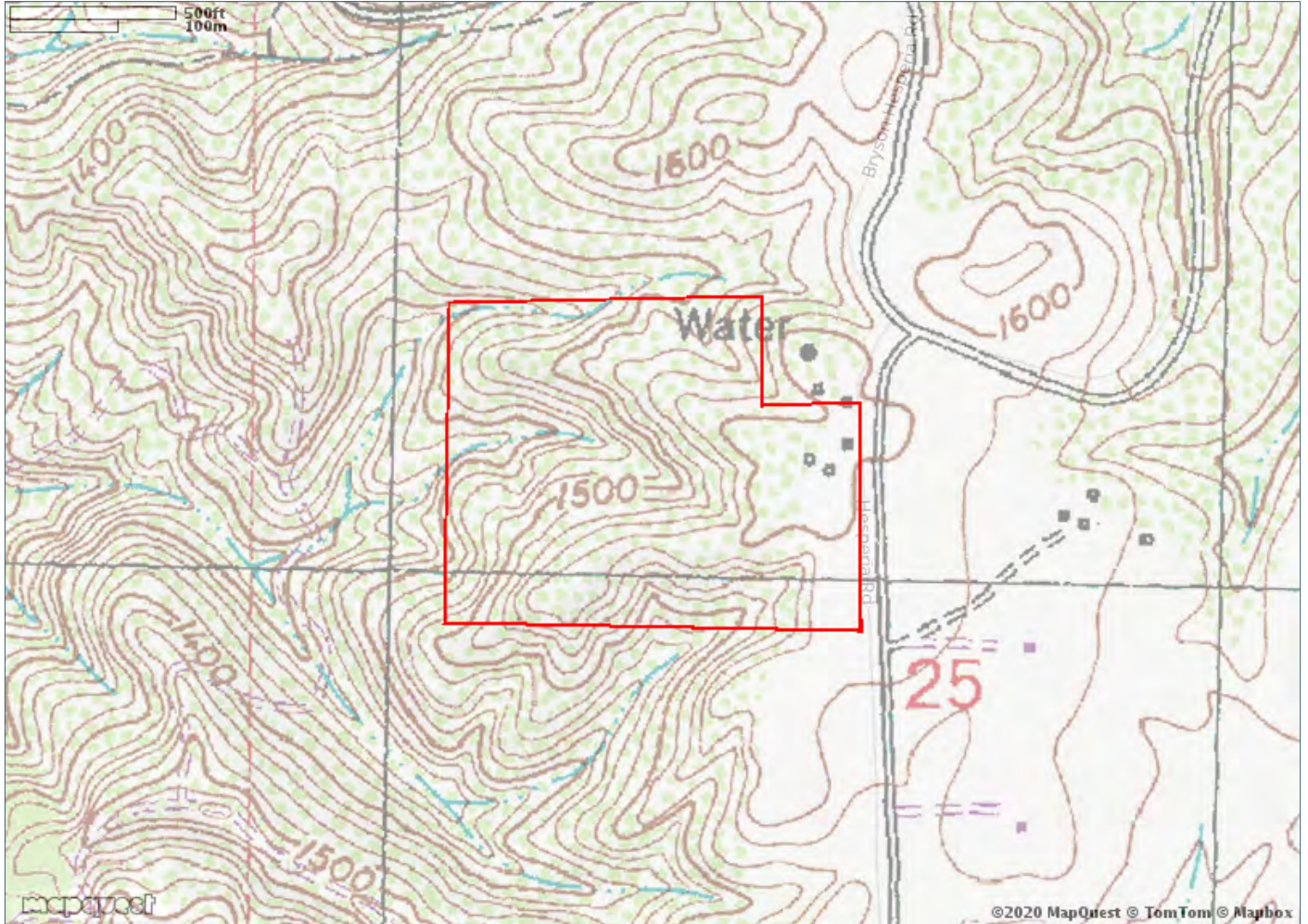
Topography Report

Property Address:

76310 HESPERIA RD BRADLEY CA 93426-9505

Parcel # (APN):

424-051-065-000



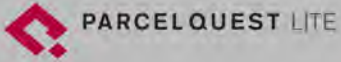
Call us (844) 893-7216

Visit us: www.ParcelQuest.com

* The information provided here is deemed reliable, but is not guaranteed.

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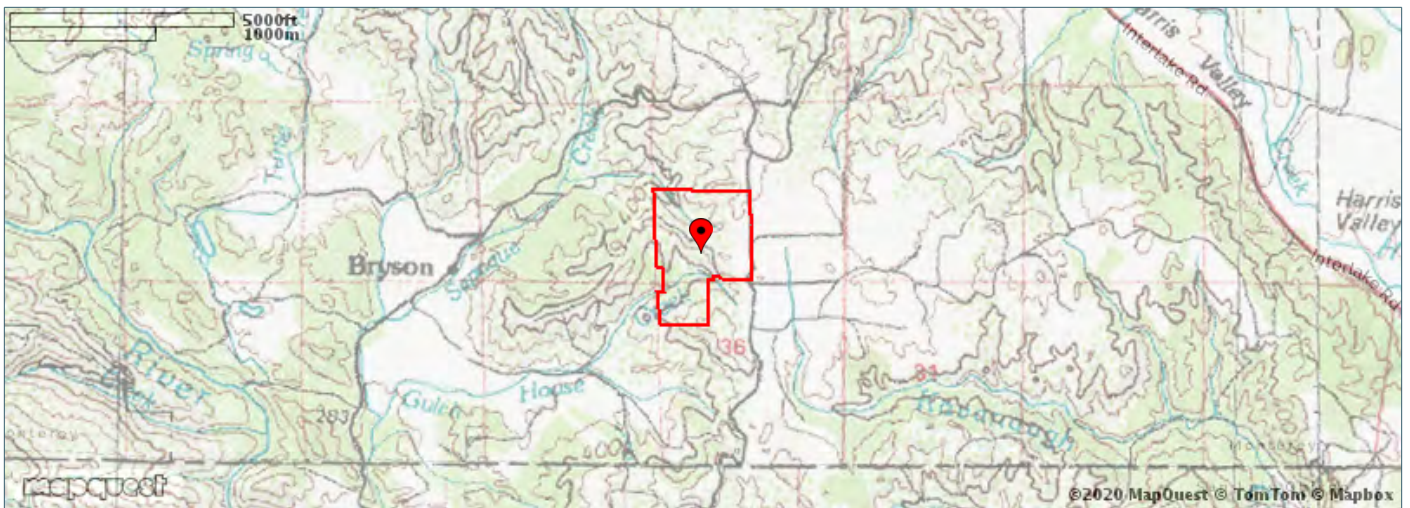
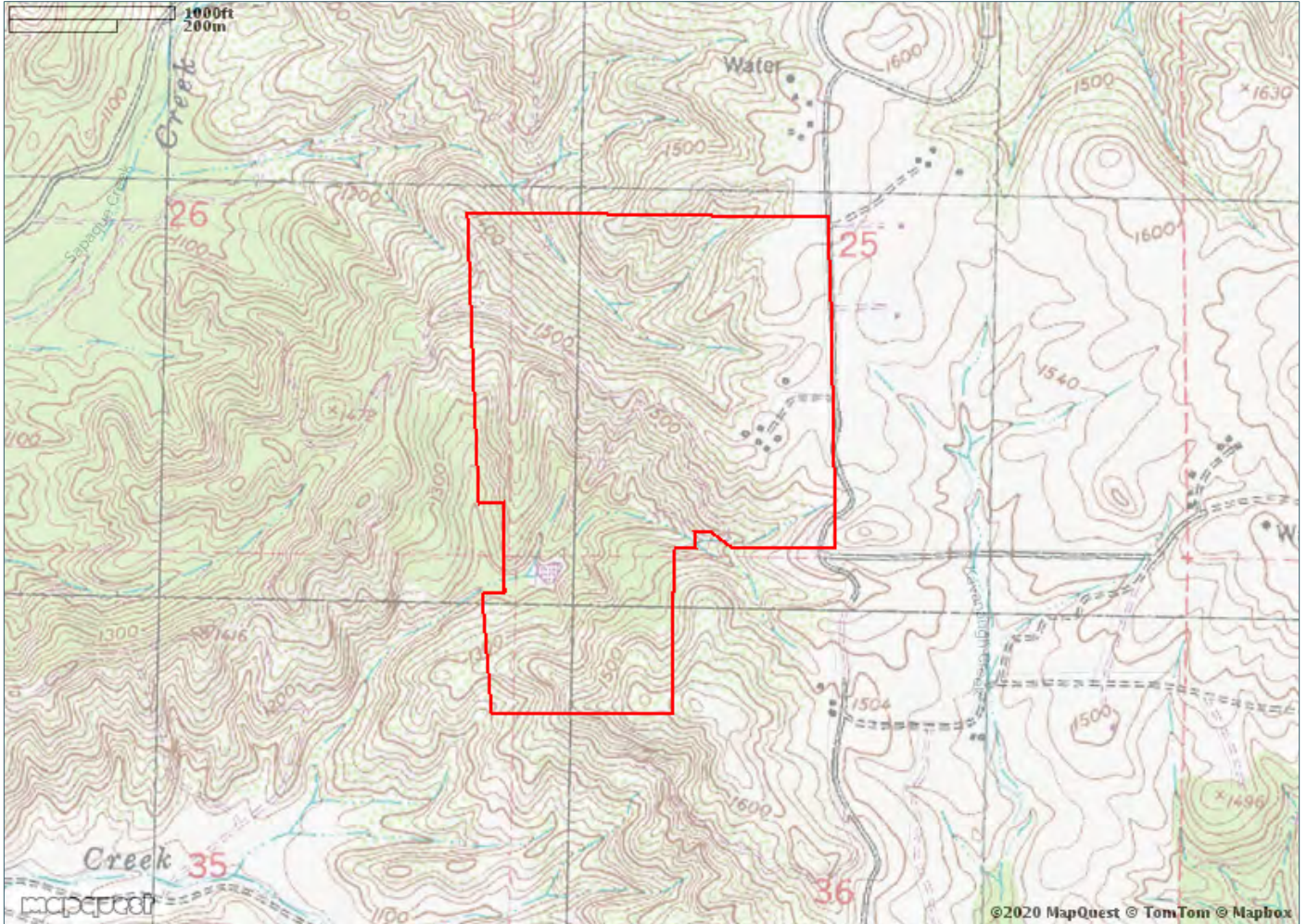
PLN 180317 ALTERNATIVE SITE (MAP)



Topography Report

Property Address:
2570 BRYSON RD BRADLEY CA 93426

Parcel # (APN):
424-051-015-000



Call us (844) 893-7216

Visit us: www.ParcelQuest.com

* The information provided here is deemed reliable, but is not guaranteed.

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APPENDIX E

Photography Log and Credits

Appendix E Photography Log and Credits

(The Civil Grand Jury is grateful to all who donated photographs, even without knowing how they would be used.)

<u>Count</u>	<u>Pg</u>	<u>Description</u>	<u>Credits *</u>
1	6.	PLN 180317 on Bryson-Hesperia Plain	Permission of owner
2	7.	District Three Supervisor & County Staff meet with the Community on Aug 28, 2019 to discuss the new cell tower	Permission of owner
3	8.	Hesperia Road -- cell tower construction	Permission of owner
4	13.	Uncaptioned photograph	Permission of owner
5	14.	Parcel Map of Primary and Alternative Sites (annotated)	Monterey County Records
6	15.	Uncaptioned Imagery (annotated)	Google Permission with required credits on photo
7	17.	Primary site, with cell tower, looking south toward a tree line on the alternative site	Permission of owner
8	18.	Monterey County Weekly. Notice in Oct 10-17, 2018 edition. Page 59 (classifieds)	17 USC § 107 Fair Use
9	19.	PLN 180317 Public Hearing (10/25/18)	Public Domain
10	20.	Tuesday, August 6th 2019, tower construction	Permission of owner
11	22.	A LUAC-reviewed cell tower. distance: 14.8mi	Permission of owner
12	23.	Bee Rock cell tower, 7.5 miles from primary	Permission of owner
13	24.	PLN 180317 Microwave dish antenna	Permission of owner
14	29.	Hesperia Road viewsheds two views: facing away & facing toward the cell tower	Permission of owner
15	31.	RMA Planning - the permit counter	Permission of owner
16	34.	Bryson - Hesperia before	Permission of owner

* The owners of all pictures were verified by the Civil Grand Jury, and all names have been redacted.

OVERDUE RESPONSES TO THE 2018/19 CIVIL GRAND JURY REPORT

SUMMARY

The 2018/19 Monterey County Civil Grand Jury (Grand Jury) report, *Rape Kit Processing in Monterey County*, published on June 24, 2019, required responses from the Monterey County Board of Supervisors and eleven of the twelve city councils in Monterey County. The responses were due by September 12, 2019. Three cities — Soledad, Seaside, and Del Rey Oaks — failed to provide a timely response.

BACKGROUND

The Continuity Committee of the 2019/20 Civil Grand Jury is responsible for ensuring the seamless transition from one Civil Grand Jury to the next. One of the Committee's responsibilities is to monitor the filing of responses to the previous year's Civil Grand Jury reports, and advise the current Civil Grand Jury if those responses are complete and legally sufficient, or if additional follow-up is required.

California State Penal Code section 933(c) sets forth, in part:

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations

DISCUSSION

The 90-day deadline for responses to the 2018/19 Civil Grand Jury report, *Rape Kit Processing in Monterey County*, was September 12, 2019.

Three cities failed to respond by the deadline: Soledad, Seaside, and Del Rey Oaks.

The Monterey County Civil Grand Jury Procedures Manual, relative to required responses to Civil Grand Jury recommendations, sets forth the following: "If a board or elected official fails to respond to one or more findings or recommendations, the jury should send a letter advising the board or official of the requirements of §933.05." Such reminder letters were sent to the three City Councils on January 23, 2020. Following receipt of the reminder letters, the three cities responded as follows:

- The City of Soledad called and emailed to explain that the response had been approved by the City Council on September 4, 2019 but by some oversight the response letter never made it to the mayor for his signature. The mayor's signature was obtained, and the response letter was received on February 6, 2020 (Exhibit A). The Civil Grand Jury verified that the response letter was listed on the September 4, 2019 City Council meeting agenda (Exhibit B). The minutes of the September 4, 2019 City Council meeting indicated that the letter was approved as part of the consent calendar (Exhibit C).
- The City of Seaside called and emailed to say that the response letter was being placed on the agenda for approval by the City Council at its February 20, 2020 meeting. The Civil Grand Jury verified that the approval of the city response was listed on the February 20, 2020 City Council meeting agenda (Exhibit D) along with the letter (Exhibit E).
- The City of Del Rey Oaks' reply (Exhibit F) was prepared and presented to the City Council on August 27, 2019 by the Chief of Police. The response was approved at that time. The response letter to the Superior Court was prepared and signed on September 1, 2019. However, that response was never sent. After inquiry by this Civil Grand Jury, the City of Del Rey Oaks mailed the response. It

was received by the Superior Court and provided to Civil Grand Jury on March 9, 2020.

FINDINGS

- F1. The City of Soledad prepared a timely response but failed to follow-through to obtain a signature on the duly-approved response letter and to mail the letter in a timely matter.
- F2. The City of Seaside failed to comply with the requirements set forth in California Penal Code §933.05, but quickly corrected the omission once notified.
- F3. The City of Del Rey Oaks prepared a timely response but failed to follow-through by mailing out the duly approved response and letter in a timely matter.

RECOMMENDATIONS

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

- R1. The City of Soledad should develop and implement new procedures (if none currently exist), and review existing procedures for responding to the Civil Grand Jury's findings and recommendations to ensure that the city's response is delivered to the presiding judge on or before the due date. These procedures should be developed and implemented within 90 days of the publication of this report.
- R2. The City of Seaside should develop and implement new procedures (if none currently exist) and review existing procedures for responding to the Civil Grand

Jury's findings and recommendations to ensure that the city's response is delivered to the presiding judge on or before the due date. These procedures should be developed and implemented within 90 days of the publication of this report.

- R3. The City of Del Rey Oaks should develop and implement new procedures (if none currently exist), and review existing procedures for responding to the Civil Grand Jury's findings and recommendations to ensure that the city's response is delivered to the presiding judge on or before the due date. These procedures should be developed and implemented within 90 days of the publication of this report.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Civil Grand Jury requested responses from the following governing bodies within 90 days:

- Soledad City Council
Finding: F1
Recommendation: R1

- Seaside City Council
Finding: F2
Recommendation: R2

- Del Rey Oaks City Council
Finding: F3
Recommendation:

APPENDICES

Exhibit A – City of Soledad’s Response Letter to the Rape Kit Processing Report

Exhibit B – City Council Meeting Agenda for 4 September 2019, City of Soledad

Exhibit C – City Council Meeting Minutes for 4 September 2019, City of Soledad

Exhibit D – City Council Meeting Agenda for 20 February 2020, City of Seaside

Exhibit E – City of Seaside’s Response Letter to the Rape Kit Processing Report, Draft

Exhibit F – City of Del Ray Oaks Response Letter to the Rape Kit Processing Report

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

APPENDIX A



Gateway
to the
Pinnacles

SOLEDAD CALIFORNIA

January 27, 2020

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

Re: City of Soledad's Response to the 2018-2019 Monterey County Civil Grand Jury
Final Report "Rape Kit Processing In Monterey County."

Dear Ms. Garcia,

The City of Soledad received a letter from you dated January 23, 2020 to inform us that the City's response to the 2018-2019 Monterey Civil Grand Jury Report Rape Kit Processing in Monterey County was not received.

We have found that the staff report and response letter was approved by the City Council at its September 4, 2019 Council Meeting, however, we failed to send to you the final executed response letter.

Enclosed, please find a copy of the staff report and executed response letters. The letters are identical, with one dated September 4, 2019 and one dated January 27, 2020.

Our sincere apologies for the delay.

If you have any questions, please contact me at (831) 223-5016.

Sincerely,

Michael McHatten
City Manager



COUNCIL COMMUNICATION

SUBJECT: RECEIVE AND ACCEPT THE CITY'S RESPONSE LETTER TO THE CIVIL GRAND JURY'S REPORT REGARDING RAPE KIT PROCESSING IN MONTEREY COUNTY AND APPROVE TRANSMITTAL OF THE RESPONSE LETTER

MEETING

DATE: September 4, 2019

Recommendation

It is recommended that the City Council receive and accept the City's response letter to the Civil Grand Jury's report regarding rape kit processing in Monterey County and approve transmittal of the response letter.

Background

The 2018-2019 Monterey County Civil Grand Jury conducted research into how sexual assault forensic evidence, commonly called "rape kits," is being processed by law enforcement agencies ("LEAs") in Monterey County. After conducting interviews with Monterey County LEAs, the Civil Grand Jury published its report on or around June 14, 2019, and then forwarded its findings and recommendations to the City Councils of each city in the County. The Civil Grand Jury has asked that each City Council respond to its findings by providing one of the following responses:

1. That the City Council agrees with the finding; or
2. That the City Council disagrees wholly or partially with the finding, in which case the City Council must specify the portion of the finding that is disputed and shall include in the response an explanation of the reasons for the disagreement.

With respect to each recommendation, the City Council must report one of the following actions:

1. That the recommendation has been implemented, with a summary regarding the implemented action;
2. That the recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation; or
3. That the recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared

- for discussion by the City Council (this timeframe not to exceed six months from the date of publication of the report); or
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

Review and Analysis

The Civil Grand Jury has requested a response from the Soledad City Council on a number of findings and recommendations highlighted in its report. Chief Sills and Staff prepared an initial response letter from the Soledad City Council that was presented to the Council at the August 7 Council meeting. After expressing some misgivings concerning the wording of several responses to Grand Jury findings, primarily having to do with the need to clarify the City's compliance with existing regulations concerning the processing of rape kits and the City's commitment to provide adequate training and/or be otherwise prepared to investigate sexual assault cases, the Council requested that Staff modify the City responses and bring the same back for Council review at the September meeting. Please refer to attached draft letter for modifications. The City's response is time sensitive, and is due by no later than September 14, 2019.

Financial Consideration

The City is not expected to experience any appreciable fiscal impact from responding to the Civil Grand Jury. There may be costs, in an amount unknown at this time, associated with implementation of all of the Grand Jury's recommendations.

Alternatives

- Accept the prepared responses to the Civil Grand Jury and direct that they be forwarded to the Honorable Stephanie E. Hulseley.
- Request changes to the responses and then direct that they be forwarded to the Honorable Stephanie E. Hulseley.



City Manager

Attachment: City's Response Letter



Gateway
to the
Pinnacles

SOLEDAD CALIFORNIA

September 4, 2019

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

Re: City of Soledad's Response to the 2018-2019 Monterey County Civil Grand Jury Final Report "Rape Kit Processing In Monterey County."

Dear Judge Hulsey:

This letter will serve as the City Council of the City of Soledad's response in regard to the Findings and Recommendations of the 2018-2019 Monterey County Civil Grand Jury Final Report- "Rape Kit Processing in Monterey County." As requested by the Grand Jury, the City of Soledad respectfully submits the following responses to the Findings (1-9) and Recommendations (2-6) as identified for a response in the Report.

Civil Grand Jury's Report- Findings

- F1)** *LEAs in Monterey County lacked awareness and provided unclear and inconsistent information as to whether there are any backlogged Rape Kits.* The City Council partially disagrees with the finding. While the City recognizes that this finding may apply to some LEAs in Monterey County, the Soledad Police Department keeps current and complete records of Rape Kit processing, has been and continues to be in compliance with Rape Kit processing requirements, and has no kits held in evidence that have not been processed.
- F2)** *The lack of a centralized place to post information has resulted in a lack of consistency in the way that LEAs manage and track sexual assaults.* The City Council agrees with the finding that there is no local centralized place to post information related to the status of Rape Kits. This can result in a lack of consistency in the managing and tracking of sexual assaults.
- F3)** *At the beginning of this investigation, not all the LEAs were prepared to report the Rape Kit status information to the CDOJ as required by PC 680.4.* The City Council partially disagrees with the finding. While the City recognizes that some LEAs may not have been prepared to report the status of Rape Kits as required by PC 680.4, the

Soledad Police Department was aware of the requirement and did submit its report before the July 1, 2019 deadline.

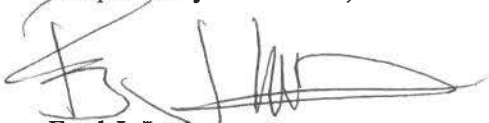
- F4)** *There is advanced training available for sexual assault investigators, but LEAs are instead relying upon senior investigators to provide “on the job training to other investigators within their respective departments.”* The City Council agrees with the finding. Due to insufficient staffing, the City’s police department has been unable to take advantage of advanced training courses. Therefore, the Department relies upon Field Training Officers to provide the training for new recruits and less experienced officers.
- F5)** *Training for advanced skills in the forensics of sexual assault investigations is not prioritized in the budgeting process.* The City Council partially disagrees with the finding. The City has budgeted adequate funds to allow for training for sexual assault investigations. However, limited staff and the need to comply with other basic training requirements have resulted in an inability to send Department personnel to advanced sexual assault investigations courses. Notwithstanding, enhancing the Department’s overall skillset in investigating sexual assault cases remains a high priority.
- F6)** *Some LEAs rely on cross-training less experienced patrol officers to supplement understaffed investigative teams rather than prioritizing the strategic increase of well-trained investigators.* The City Council agrees with this finding. Because of limited staffing, the Soledad Police Department does not have a Department Detective or Investigator and our field officers are forced to conduct follow-up on sexual assault cases that they receive while working patrol.
- F7)** *All jurisdictions can expedite the investigations of rape crimes through access to the RADS processing to facilitate timely resolution of rape cases.* The City Council agrees with the finding. The Soledad Police Department has been in compliance with the use of RADS since its inception in September of 2016.
- F8)** *Most LEAs in Monterey County have implemented DNA testing protocols established by the CDOJ which have reduced the likelihood of unprocessed DNA evidence.* The City Council agrees with the finding.
- F9)** *There is no centralized authority coordinating all LEAs in Monterey County regarding collection, processing and reporting of sexual assaults.* The City Council agrees with the finding.

RECOMMENDATIONS

- R2)** *By January 15, 2020, the governing bodies of all Monterey County LEAs should assign a representative to participate in the DA-led centralized reporting initiative.* The recommendation has not been implemented, but once the Monterey County District Attorney’s Office develops a centralized interagency model, this can be accomplished.

- R3)** *By July 1, 2019, every Monterey County LEA should report to the CDOJ the required data outlined in PC 680.4. That recommendation has been implemented and the Soledad Police Department is in compliance with the law.*
- R4)** *By July 1, 2019, and annually thereafter, every Monterey County LEA should report to their governing body and the public the required data outlined in PC 680.4. The recommendation requires further analysis, to be undertaken within the next six months, as to whether PC 680.4 imposes additional requirements to report this same information to the public. With regard to making annual reports to the governing body of the City of Soledad, the recommendation will be implemented.*
- R5)** *By January 15, 2020, every Monterey County LEA should develop a funding source, such as grants, for additional expertise training and recertification within the Sexual Assault and Forensic Division. The recommendation requires further analysis within the next six months. Although additional funding can be sought to pay for such training, inadequate staffing of a small agency will continue to make it difficult to send personnel to training without compromising the overall patrol strength of the City.*
- R6)** *By fiscal year 2020-2021, every Monterey County LEA should add or dedicate certified staff for Sexual Assault Investigations and include that increased cost in their budgets. The recommendation requires further analysis within the next six months. Although certain staff members may be dedicated as certified sexual assault investigators, the Department may not have the ability to add increased funding to pay for the necessary training or the ability to pay those designated investigators stand-by pay. The Department can only make a department budgeting request- the City Council is ultimately responsible for the allocation of funds for ongoing and new programs.*

Respectfully submitted,



Fred J. Ledesma

Mayor, for and on behalf of the City Council of the City of Soledad

c: Michael McHatten, City Manager
Eric Sills, Chief of Police



Gateway
to the
Pinnacles

SOLEDAD CALIFORNIA

January 27, 2020

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

Re: City of Soledad's Response to the 2018-2019 Monterey County Civil Grand Jury Final Report "Rape Kit Processing In Monterey County."

Dear Judge Hulsey:

This letter will serve as the City Council of the City of Soledad's response in regard to the Findings and Recommendations of the 2018-2019 Monterey County Civil Grand Jury Final Report- "Rape Kit Processing in Monterey County." As requested by the Grand Jury, the City of Soledad respectfully submits the following responses to the Findings (1-9) and Recommendations (2-6) as identified for a response in the Report.

Civil Grand Jury's Report- Findings

- F1)** *LEAs in Monterey County lacked awareness and provided unclear and inconsistent information as to whether there are any backlogged Rape Kits.* The City Council partially disagrees with the finding. While the City recognizes that this finding may apply to some LEAs in Monterey County, the Soledad Police Department keeps current and complete records of Rape Kit processing, has been and continues to be in compliance with Rape Kit processing requirements, and has no kits held in evidence that have not been processed.
- F2)** *The lack of a centralized place to post information has resulted in a lack of consistency in the way that LEAs manage and track sexual assaults.* The City Council agrees with the finding that there is no local centralized place to post information related to the status of Rape Kits. This can result in a lack of consistency in the managing and tracking of sexual assaults.
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Soledad Police Department was aware of the requirement and did submit its report before the July 1, 2019 deadline.

- F4)** *There is advanced training available for sexual assault investigators, but LEAs are instead relying upon senior investigators to provide “on the job training to other investigators within their respective departments.”* The City Council agrees with the finding. Due to insufficient staffing, the City’s police department has been unable to take advantage of advanced training courses. Therefore, the Department relies upon Field Training Officers to provide the training for new recruits and less experienced officers.
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RECOMMENDATIONS

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Respectfully submitted,

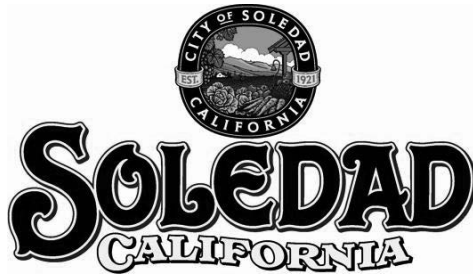


Fred J. Ledesma

Mayor, for and on behalf of the City Council of the City of Soledad

c: Michael McHatten, City Manager
Eric Sills, Chief of Police

APPENDIX B



CITY OF SOLEDAD

JOINT CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AUTHORITY
REGULAR MEETING AGENDA

WEDNESDAY, SEPTEMBER 4, 2019

5:30 P.M.

The public meeting will open at 5:30 and, after taking public comment for closed session items, the Council will immediately recess to closed session.

6:00 P.M.

The regular public open meeting will begin at 6:00, or as soon thereafter as the Closed Session is concluded, and any reportable action taken during the Closed Session will be reported out at that time.

CITY COUNCIL CHAMBERS
248 MAIN STREET
SOLEDAD, CALIFORNIA

WELCOME

Welcome to your City of Soledad City Council/Successor Agency Meeting. Your City Councilmembers/Agencymembers are:

Mayor/Chair Fred J. Ledesma
Mayor Pro Tem/Vice Chair Alejandro Chavez
Councilmember/Agencymember Carla Strobridge Stewart
Councilmember/Agencymember Anna Velazquez
Councilmember/Agencymember Marisela Lara

I. CALL TO ORDER

II. ROLL CALL

III. PUBLIC COMMENT- CLOSED SESSION ITEMS

At this time any member of the public may address the Council/Agency on Closed Session items appearing on the agenda. Speakers shall have limited time of three (3) minutes. Please be brief and to the point.

IV. CLOSED SESSION

A Closed Session will be held immediately prior to the open public meeting, and will begin at 5:30 p.m. The open public meeting will begin at 6:00 p.m., or as soon thereafter as the Closed Session is concluded or adjourned for consideration and conclusion at the end of the open public meeting.

1. The City Council will recess to closed session pursuant to Government Code Section 54956.9(a)(d)(1) to confer with its attorney regarding pending litigation which has been initiated formally and to which the City is a party: Claim of Calderon
2. The City Council will recess to Closed Session to consider personnel matters pursuant to Government Code Section 54957(B)(1)- City Manager Evaluation

V. CLOSED SESSION REPORTS

VI. PLEDGE OF ALLEGIANCE

VII. PEACEBUILDERS' PLEDGE

VIII. ADDITIONS/MODIFICATIONS TO THE AGENDA

Items of business may be added to the agenda upon a motion adopted by a minimum 2/3 vote finding that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the agenda being posted. Items may be deleted from the agenda upon request of staff or upon action of the Council.

IX. MAYOR/COUNCIL PRESENTATIONS

- Proclamation –National Recovery Month September 2019

X. PUBLIC COMMENT

At this time any member of the public may address the City Council on items not appearing on the agenda and items of interest to the public that are within the jurisdiction of the Council. Speakers shall have limited time of three (3) minutes. Please be brief and to the point. No action or discussion shall be taken on an item not appearing on the agenda, except that Councilmembers may briefly respond to statements made or questions posed by members of the public.

XI. MAYOR’S REPORT

XII. COUNCILMEMBERS’ ANNOUNCEMENTS AND REPORTS

Announcements and Reports on meetings attended by Councilmembers at City of Soledad expense as required by State law (AB1234).

XIII. COUNCILMEMBERS’ PRAISE

XIV. YOUTH COUNCIL’S REPORT

XV. PRESENTATIONS

- 2019 Young Legislators Program – Senator Anna Caballero’s Office

XVI. CONSENT CALENDAR

All matters listed under the Consent Calendar are considered routine by the City Council and will be adopted by one action of the Council unless any Councilmember has any questions or wishes to make a statement or discuss an item. In that event, the Mayor will remove the item from the Consent Calendar for separate consideration.

C-1 Approval of Minutes

- a) Joint City Council/Successor Agency Regular Meeting Minutes of August 7, 2019

COUNCIL/AGENCY ACTION: _____

C-2 Approval of Warrants

#039034 - #039251

COUNCIL ACTION: _____

- C-3 Resolution No. 5532, A Resolution of the City Council of the City of Soledad Approving Reinstatement of the Laboratory Director Job Classification, Adopting a New Job Description, and Establishing a Salary Range**

COUNCIL ACTION: _____

C-4 Resolution No. 5533, A Resolution of the City Council of the City of Soledad Approving the Job Classification of Senior Water Systems Operator, Adopting a Job Description, and Establishing a Salary Range

COUNCIL ACTION: _____

C-5 Resolution No. 5534, A Resolution of the City Council of the City of Soledad Considering the Liberty Chapel Church Request for Use of the Soledad Community Center on October 31, 2019 for their Annual Harvest Night Event, and Authorizing Sponsorship of the Event

COUNCIL ACTION: _____

C-6 Receive and Accept the City’s Response Letter to the Civil Grand Jury’s Report Regarding Rape Kit Processing in Monterey County and Approve Transmittal of the Response Letter

COUNCIL ACTION: _____

C-7 ITEM REMOVED

C-8 Resolution No. 5535, A Resolution of the City Council of the City of Soledad Approving Construction Services Agreement Change Order No #2 with Teichert Construction, in an Amount not-to-exceed \$56,800, for the Gabilan Drive Storm Drain Improvements Project and Authorizing the City Manager to Execute said Change Orders on behalf of the City of Soledad

COUNCIL ACTION: _____

C-9 Resolution No. 5536, A Resolution of the City Council of the City of Soledad Accepting Dedication of a Reclaimed Water Pipeline Easement as Part of the Reclaimed Wastewater Transmission Pipeline Project

COUNCIL ACTION: _____

C-10 Receive and Accept City of Soledad Monthly Department Activity Reports

COUNCIL ACTION: _____

XVII. BUSINESS

B-1 Consideration of one Appointment to the Soledad Planning Commission

COUNCIL ACTION: _____

B-2 Resolution No. **5537**, A Resolution of the City Council of the City of Soledad Approving an Amendment to Task Order No. 68 with Harris & Associates to Develop a Sanitary Sewer Master Plan and Capital Improvement Plan in the Amount of \$34,385 and Authorizing the City Manager to Execute Said Task Order on behalf of the City of Soledad

COUNCIL ACTION: _____

B-3 Resolution No. **5538**, A Resolution of the City Council of the City of Soledad approving a Consulting Services Agreement with PlaceWorks in an amount not to exceed \$110,625 for the City of Soledad Zoning Code Update and authorizing the City Manager to execute said agreement on behalf of the City of Soledad

COUNCIL ACTION: _____

XVIII. CITY MANAGER'S REPORT

- Report of September 4, 2019


XIX. COUNCILMEMBERS' ITEMS AND FUTURE AGENDA ITEMS

Comments from the Councilmembers on general items of concern and on matters that they wish to put on future agendas.

XX. ADJOURNMENT

XXI. CERTIFICATION

I, Michael McHatten, City Clerk of the City of Soledad, do hereby certify that a copy of the foregoing Joint City Council/Successor Agency Regular Meeting Agenda was posted at City Hall by Friday, August 30, 2019, at 5:00 p.m.



Michael McHatten, City Clerk/Secretary

08/28/2019
Date

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact City Clerk Michael McHatten at (831) 223-5014. Notification of at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (RCRF 35.102-35.104).

“Any writing or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at City Hall located at 248 Main Street, Soledad, California during normal business hours.”

En caso que usted necesite ayuda en leer o en entender este aviso de Junta Publica, usted puede ponerse en contacto con la oficina del Edificio Municipal en 248 Calle Main o llamar al número (831) 223-5014, y el aviso será traducido para usted.

APPENDIX C

Minutes

City of Soledad Joint
City Council/Successor Agency
Regular Meeting

September 4, 2019

CALL TO ORDER

Mayor Ledesma called the City Council/Successor Agency Meeting to order at 5:34 p.m.

ROLL CALL

The Following Councilmembers/Agencymembers were present when the meeting was called to order:

Mayor/Chair	Fred Ledesma
Mayor Pro Tem/Vice Chair	Alejandro Chavez
Councilmember/Agencymember	Carla Strobridge Stewart (Arrived at 5:40 p.m.)
Councilmember/Agencymember	Anna Velazquez (Arrived at 5:40 p.m.)
Councilmember/Agencymember	Marisela Lara

THE FOLLOWING COUNCILMEMBER WAS ABSENT

- None

PUBLIC COMMENT ON CLOSED SESSION ITEMS

- None

MEETING RECESS FOR CLOSED SESSION

- 5:35 p.m.

MEETING RECONVENED

- 6:08 p.m.

CLOSED SESSION ITEMS

1. The City Council will recess to closed session pursuant to Government Code Section 54956.9(a)(d)(1) to confer with its attorney regarding pending litigation which has been initiated formally and to which the City is a party: Claim of Calderon

2. The City Council will recess to Closed Session to consider personnel matters pursuant to Government Code Section 54957(B)(1)- City Manager Evaluation

CLOSED SESSION REPORTS

1. City Attorney Michael Rodriguez reported with respect to item no. 1, Council considered the claim and unanimously rejected the claim and gave direction to the attorney.
2. City Attorney Michael Rodriguez reported with respect to item no. 2, there was general discussion of the evaluation process. No other reportable action was taken.

PLEDGE OF ALLEGIANCE was led by Aaron Arriaga

PEACEBUILDERS' PLEDGE was led by Amber Solorio

ADDITIONS/MODIFICATIONS TO THE AGENDA

- None

MAYOR/COUNCIL PRESENTATIONS

- Mayor Ledesma read the Proclamation Honoring National Recovery Month. Sun Street Centers, South County Prevention Coordinator Ms. Darlene Acosta was present to accept the proclamation.

PUBLIC COMMENT

- Resident of Soledad Rosalba Saldana spoke in support of the YMCA.
- Executive Director of Special Kids Connect Lori Luzader spoke in support of the YMCA.
- Resident of Soledad Darlene spoke in support of the YMCA.
- Resident of Soledad Idel Aldaco spoke in support of the YMCA and the REACH program.
- Resident of Soledad Monica Valle spoke in support of the YMCA.
- Resident of Soledad Jesus Sanchez spoke in support of the YMCA.
- Resident of Soledad and Executive Director Joe Gonzales spoke in support of the YMCA.
- Resident of Soledad Laura Galvan asked the Council if there are any updates to report regarding Nielsen's Trailer Park.

MAYOR'S REPORT

- Mayor Ledesma wanted to remind Council of the upcoming ACCAPS semi-annual conference – Marijuana Symposium in Coalinga on September 19, 2019.
- Mayor Ledesma attended the Air Board meeting on August 21, 2019
- Mayor Ledesma attended the Mayor's meeting on August 26, 2019

COUNCILMEMBERS' ANNOUNCEMENTS AND REPORTS

- Councilmember Strobridge Stewart attended the Salinas Valley Promise Press Conference on 8/8. She also attended the Salinas Valley Solid Waste Authority meeting on behalf of Councilmember Lara on 8/15. She attended the county wide Homeless Pet Day on 8/17. She gave a presentation regarding South County Animal Rescue on 8/19 to the Soledad Youth Council.
- Mayor Pro Tem Chavez attended the Salinas Valley Promise Press Conference on 8/8 regarding Hartnell College.
- Councilmember Velazquez reported that there was no MST meeting in the month of August. On 8/9 she met with Araceli Flores from Monterey County Behavioral Health Services regarding resources for the South County youth. On 8/21 she met with CCA regarding the Census 2020. On 8/22 she attended a COPA meeting at Hartnell College that was a part of the Measure T forum. On 8/24 she attended the Family Paint Day at the Soledad YMCA. On 8/28 she attended Dole's Health and Safety Fair. On 8/29 she attended the H2A subcommittee meeting at Soledad City Hall.

COUNCILMEMBERS' PRAISE

- Councilmember Velazquez gave praise to the Girl Scout Group 30223 who started a free library at San Antonio Park in Soledad.
- Councilmember Strobridge Stewart welcomed back Darlene Noriega and thanked Francine Uy for filling in while Ms. Noriega was on leave.
- Mayor Pro Tem Chavez thanked Mr. Anthony Mena, a local coach in Soledad. He has a business called South County Speed Training. He trained kids throughout the summer and charged them a very minimal fee. He has motivated young people to look forward to being healthy and even looking towards college and also being great athletes.
- Mayor Ledesma gave praise to the City staff for being very supportive of each other.

YOUTH COUNCIL REPORT

Youth Commissioner Amber Solorio provided a report on the experience in attending the 8/22 Hartnell College Stake Holders meeting.

Youth Commissioner Aaron Arriaga reported on 8/20 Soledad High school held their annual club carnival. The Youth Commission was given the opportunity to set up a booth and clarify who they are and what they do. They were also able to post information as to dates of future meetings.

On 9/4/19 the Youth Commissioners took a tour of Eden Valley.

They are working on an engagement activity that will help bonding between the upper and lower classmen within the council.

The youth council plans on attending the Parks and Recreation meeting.

PRESENTATIONS

- Senator Anna Caballero Field Representative Vanessa Gonzalez gave a brief presentation and presented a PowerPoint on the 2019 Young Legislators Program that was held on June 22 – July 18, 2019 in the City of Greenfield.

CONSENT CALENDAR

C-1 Approval of Minutes

- a) Joint City Council/Successor Agency Regular Meeting Minutes of September 04, 2019.

C-2 Approval of Warrants

039034 - # 039251

- ### **C-3 Resolution No. 5532, A Resolution of the City Council of the City of Soledad Approving Reinstatement of the Laboratory Director Job Classification, Adopting a New Job Description, and Establishing a Salary Range**

- ### **C-4 Resolution No. 5533, A Resolution of the City Council of the City of Soledad Approving the Job Classification of Senior Water Systems Operator, Adopting a Job Description, and Establishing a Salary Range**

- C-5 Resolution No. **5534**, A Resolution of the City Council of the City of Soledad Considering the Liberty Chapel Church Request for Use of the Soledad Community Center on October 31, 2019 for their Annual Harvest Night Event, and Authorizing Sponsorship of the Event
- C-6 Receive and Accept the City's Response Letter to the Civil Grand Jury's Report Regarding Rape Kit Processing in Monterey County and Approve Transmittal of the Response Letter
- C-7 ITEM REMOVED
- C-8 Resolution No. **5535**, A Resolution of the City Council of the City of Soledad Approving Construction Services Agreement Change Order No #2 with Teichert Construction, in an Amount not-to-exceed \$56,800, for the Gabilan Drive Storm Drain Improvements Project and Authorizing the City Manager to Execute said Change Orders on behalf of the City of Soledad
- C-9 Resolution No. **5536**, A Resolution of the City Council of the City of Soledad Accepting Dedication of a Reclaimed Water Pipeline Easement as Part of the Reclaimed Wastewater Transmission Pipeline Project
- C-10 Receive and Accept City of Soledad Monthly Department Activity Reports

Motion: Mayor Pro Tem Chavez made a motion to approve items C-1 through C-10, with the exception of the removed item of C-7. Motion was seconded by Councilmember Strobridge Stewart and carried by unanimous vote:

Action:

Ayes: Chavez, Strobridge Stewart, Velazquez, Lara and Ledesma
Noes: None
Abstain: None
Absent: None

BUSINESS

- B-1 Consideration of one Appointment to the Soledad Planning Commission

Community and Economic Development Director Brent Slama presented the staff report.

Council Action:

Mayor Fred Ledesma appointed Ms. Sandy R. Fuerte as a Planning Commissioner.

- B-2 Resolution No. **5537**, A Resolution of the City Council of the City of Soledad Approving an Amendment to Task Order No. 68 with Harris & Associates to

Develop a Sanitary Sewer Master Plan and Capital Improvement Plan in the Amount of \$34,385 and Authorizing the City Manager to Execute Said Task Order on behalf of the City of Soledad

Harris & Associates Senior Project Manager Leon Gomez presented the staff report.

Motion: Councilmember Strobridge Stewart made a motion to approve Resolution No. 5537. Motion was seconded by Councilmember Velazquez and carried by unanimous vote:

Action:

Ayes: Strobridge Stewart, Velazquez, Chavez, Lara and Ledesma
Noes: None
Abstain: None
Absent: None

B-3 Resolution No. **5538**, A Resolution of the City Council of the City of Soledad approving a Consulting Services Agreement with PlaceWorks in an amount not to exceed \$110,625 for the City of Soledad Zoning Code Update and authorizing the City Manager to execute said agreement on behalf of the City of Soledad

Economic Development and Housing Program Manager Jennifer Nieto presented the staff report.

Motion: Councilmember Velazquez made a motion to approve Resolution No. 5538. Motion was seconded by Mayor Pro Tem Chavez and carried by unanimous vote:

Action:

Ayes: Velazquez, Chavez, Strobridge Stewart, Lara and Ledesma
Noes: None
Abstain: None
Absent: None

CITY MANAGER'S REPORT

Community and Economic Development Director Brent Slama presented the City Manager report for City Manager McHatten.

- City Manager McHatten did circulate an email regarding setting a date for a Ground Break Ceremony for the Premier Cinema site
 - Councilmembers agreed on the date of Saturday, 9/28/2019 at 9:00 a.m.

COUNCILMEMBER’S ITEMS AND FUTURE AGENDA ITEMS

Councilmember Strobidge Stewart thanked the young people that brought up the need for Behavioral Health services in South County. There are efforts being made now to find a location to be able to provide services. She will also be having a medical procedure on 10/04 and will not be able to attend the AMBAG or the SVSWA meetings in October. Also, she will not be able to attend the AMBAG meetings in the future due to meetings she needs to attend at her place of employment, and she ask that a different councilmember be appointed to that board. AMBAG meets the 2nd Wednesday of every month in Marina. As a reminder, SnipBus will be in Soledad 09/16 and 09/17, also Dog Days of Summer will be held on 09/28.


Councilmember Velazquez would like to move forward with an MOU between the City and the school district. She would also like to move forward with the \$10,000 that was allocated towards Leadership and development and start looking at what types of trainings will be held. She would also like Voler to do a video about the Youth Council focusing on what the Youth Council has been able to do so far. Regarding behavioral health; she would also like to move forward with having a shared space or forum for the residents and youth in Soledad so they can come and talk about their anxieties.

Mayor Ledesma gave praise to City Manager McHatten and Superintendent Vanoli for moving forward with sharing the school facility. Also, Soledad owns a shooting range; there is an opportunity to bid on the gun range and so this is a great thing for Soledad. Also, there will be a housing project happening for teacher housing; we should show that we are committed to education and should find a way to give the school the land so that the school district can build homes for teachers in Soledad.


ADJOURNMENT

Mayor Ledesma adjourned the Regular meeting at 7:29 p.m.

Minutes Approved: October 2, 2019



FRED J. LEDESMA, Mayor/Chairman



MICHAEL MCHATTEN, City Clerk/Agency Secretary

APPENDIX D



AGENDA
CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
Council Chamber
440 Harcourt Avenue
Thursday, February 20, 2020
7:00 PM

1. CALL TO ORDER

2. ROLL CALL – ESTABLISHMENT OF QUORUM

Ian N. Oglesby	Mayor
David R. Pacheco	Mayor Pro Tem
Jason Campbell	Council Member
Jon Wizard	Council Member
Alissa Kispersky	Council Member

3. INVOCATION AND PLEDGE OF ALLEGIANCE

4. REVIEW OF AGENDA

If there are any items that arose after the 72-hour posting deadline, this is the point in the meeting where a vote may be taken to add the item to the agenda. (A 2/3-majority vote is required).

5. PUBLIC COMMENT

Members of the public wishing to address the City Council on matters within the jurisdiction of the City of Seaside, but not on this agenda, may do so during the Public Comment period for up to three minutes. Public Comments on specific agenda items are heard under that item. For the public record, please state your name.

6. PUBLIC AGENCY COMMUNICATIONS

This is a time specifically set aside for representatives of public agencies to make brief comments of general interest to the City Council and the community.

7. PRESENTATIONS

A. POLICE DEPARTMENT 2019 ANNUAL PUBLIC SAFETY REPORT

B. 2019 BUSINESS OF THE FOURTH QUARTER

C. MONTEREY PENINSULA HOUSING COALITION

8. CONSENT AGENDA

A. APPROVE MINUTES FROM FEBRUARY 6, 2020

RECOMMENDATION: That the minutes be reviewed and approved.

B. APPROVE AND FILE CITY CHECKS

RECOMMENDATION: Approve and file the accounts payable and wired payments made during the period of January 25, 2020 through February 7, 2020 including the payroll and benefits checks, direct deposits and wired payments related to the pay period ending January 30, 2020. Total Accounts Payable and Payroll for the above referenced period is \$1,513,766.89.

C. PROCLAMATION DECLARING FEBRUARY 2020 AS BLACK HISTORY MONTH IN THE CITY OF SEASIDE

D. APPROVE CO-SPONSORSHIP AND WAIVE ALL FEES RELATED TO THE 2020 SUSTAINABLE SEASIDE 9TH ANNUAL SEASIDE EARTH DAY CELEBRATION AT SEASIDE CITY HALL LAWN ON APRIL, 26 2020

RECOMMENDATION: Approve a request from Sustainable Seaside's request for co-sponsorship to waive all fees in the approximate amount of Two Thousand, Eight Hundred and Seventy-Six Dollars (\$2,876.00) related to the Seaside Sustainable 9th Annual Seaside Earth Day Celebration at City Hall Lawn on April 26, 2020.

E. APPROVE CITY RESPONSE TO GRAND JURY REPORT ON RAPE KIT PROCESSING

RECOMMENDATION: Authorize submittal of letter.

9. PUBLIC HEARING

A. ADOPTION OF AN ORDINANCE AMENDING SEASIDE MUNICIPAL CODE 6.04.170 POTENTIALLY DANGEROUS AND VICIOUS DOGS (SECOND READING - ROLL CALL VOTE)

RECOMMENDATION: Adopt the second reading of the draft ordinance.

B. ADOPTION OF AN ORDINANCE MODIFYING ELECTION SIGN CODE REGULATIONS AND MODIFYING THE FEE SCHEDULE AS APPROPRIATE (SECOND READING - ROLL CALL VOTE)

RECOMMENDATION: Adopt the second reading of the draft ordinance modifying election sign code regulations and modifying the fee schedule as appropriate.

10. BUSINESS ITEMS

A. RECEIVE THE 2019-2020 MID-YEAR BUDGET REPORT, ACCEPT AND FILE THE REPORT, PROVIDE DIRECTION TO STAFF AND CONSIDER ADOPTION OF A RESOLUTION APPROVING THE PROPOSED BUDGET ADJUSTMENTS

RECOMMENDATION: Receive the FY 2019-2020 Mid-Year Budget Report, accept and file the report, provide direction to staff, and consider adoption of a Resolution approving the proposed budget adjustments.

B. REVIEW THE ESTABLISHMENT OF A COMMUNITY POLICING ADVISORY COMMITTEE

RECOMMENDATION: Discuss options relative to the establishment of a Community Policing Advisory Committee.

C. REVIEW ORDINANCE AND RESOLUTION REGARDING PLACEMENT OF ITEMS ON THE COUNCIL AGENDA

RECOMMENDATION: Provide clear direction on agenda setting procedures.

11. MAYOR, CITY COUNCIL, CITY MANAGER AND CITY ATTORNEY COMMENTS AND REPORTS ON COMMITTEE ASSIGNMENTS

This is a time specifically set aside for members of the City Council, the City Manager and City Attorney to make brief comments of general interest to the community, make requests that items be added to future City Council meeting agendas as necessary and report on committee assignments.

12. COUNCIL MEMBER REQUESTS

A. REQUEST TO AGENDIZE A DISCUSSION OF THE MUNICIPALITIES, COLLEGES, SCHOOLS INSURANCE GROUP (MCSIG) PROVISION OF HEALTH BENEFITS TO ENSURE EQUITABLE, INCLUSIVE AND NON-DISCRIMINATORY PROVISION OF HEALTH BENEFITS (WIZARD)

13. ADJOURNMENT

Next Regularly Scheduled Meeting:
March 5, 2020
7:00 PM

The City of Seaside is committed to providing accessible facilities and accommodating people with disabilities in all of its services programs and activities. If special considerations are needed by any person to fully participate in this meeting, contact the City Clerk at 899-6707 no fewer than two business days prior to the meeting to allow reasonable arrangements. The City Council chamber is equipped with a portable microphone and assisted listening devices are available at all meetings. City Council Meetings that are held in the City Council Chambers are broadcast live to all Seaside residents on Comcast Channel 25 and U-verse Channel 99. Live streamed meeting videos as well as videos of past meetings are available on the City's website at: <http://www.ci.seaside.ca.us/129/City-Council-Committee-Agendas>

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Government Code Section 54954.2(a) or Section 54956.

APPENDIX E



SEASIDE CITY COUNCIL

440 Harcourt Avenue
Seaside, CA 93955
www.ci.seaside.ca.us

Telephone 831-899-6707
Fax 831-718-8594

The Honorable Lydia M. Villarreal
Presiding Judge of the Superior Court of California
County of Monterey
240 Church Street
Salinas, CA 93901

February 20, 2020

Re: 2018-2019 Monterey County Civil Grand Jury Final Report – “Rape Kit Processing in Monterey County”

Dear Judge Villarreal,

This letter is written in response to the Monterey Civil Grand Jury Final Report - “Rape Kit Processing in Monterey County.” As per the report dated June 24, 2019, this letter shall serve as the response to that report pursuant to Penal Code section 933 and 933.05. The responses contained in this correspondence were approved by the City of Seaside City Council at their regular meeting on...

Before responding to the specific findings and recommendations contained in the report, I would like to assure you that the City of Seaside is committed to ensuring the Seaside Police Department (SSPD) provides professional law enforcement services in a contemporary manner. The SSPD recognizes the importance of employing well-trained sexual assault investigators to thoroughly investigate every sexual assault report. Each month, the SSPD visits with regional law enforcement agencies, and the Monterey County District Attorney’s Office, to discuss myriad issues, including the coordination of sexual assault cases.

Our comments follow in the order that they were presented in the report. The actual report language is displayed in **bold** type for readability.

FINDINGS

Finding 1 – LEAs in Monterey County lacked awareness and provided unclear and inconsistent information as to whether there are any backlogged rape kits.

The SSPD meticulously tracks and is fully aware of the status of sexual assault rape kits that have been collected in connection with investigations led by the SSPD.

Finding 2 – The lack of a centralized place to post information has resulted in a lack of consistency in the way that LEAs manage and track sexual assaults.

The SSPD participates in a monthly meeting with other law enforcement agencies, and the District Attorney’s Office, to coordinate sexual assault investigations. The SSPD is part of the

Sexual Assault Response Team (SART), which works with Sexual Assault Nurse Examiners (SANE) during the investigation. DNA evidence obtained is submitted to the Rapid DNA Service (RADS). Additionally, the SSPD reports the status of sexual assault forensic evidence through the Sexual Assault Forensic Evidence Tracking (SAFE-T) to the California Department of Justice, as is required by PC 680.4.

Finding 3 – At the beginning of this investigation, not all the LEAs were prepared to report the Rape Kit status information to the CDOJ as required by PC 680.4.

The SSPD has reported the Rape Kit status information to the CDOJ as required by PC 680.4.

Finding 4 – There is advanced training available for sexual assault investigators, but LEAs are instead relying upon senior investigators to provide “on the job training to other investigators within their respective departments.”

The SSPD sends all detectives to a Sexual Assault Investigator Course when assigned to the SSPD Investigations Division. The three detectives assigned to the SSPD Investigations Division have all completed the California Commission on Peace Officer Standards and Training (POST) Police, Institute of Criminal Investigation (ICI) Sexual Assault Investigator Course.

Finding 5 – Training for advanced skills in the forensics of sexual assault investigations is not prioritized in the budgeting process.

The City of Seaside and SSPD place a significant emphasis on professional development and specialized training, as reflected in our budget (\$117,950). We ensure our detectives have the most relevant training available and our budget supports it.

Finding 6 – Some LEAs rely on cross-training less experienced patrol officers to supplement understaffed investigative teams rather than prioritizing the strategic increase of well-trained investigators.

The SSPD prioritizes sexual assault investigation training for our detectives. Moreover, the SSPD has officers that were previously assigned as detectives and attended the sexual assault investigation training who are currently assigned to patrol.

Finding 7 – All jurisdictions can expedite the investigations of rape crimes through access to the RADS processing to facilitate timely resolution of rape cases.

The SSPD has access to and utilizes the RADS processing system.

Finding 8 – Most LEAs in Monterey County have implemented DNA testing protocols established by the CDOJ which have reduced the likelihood of unprocessed DNA evidence.

The SSPD has implemented DNA testing protocols that are in compliance with CDOJ.

Finding 9 – There is no centralized authority coordinating all LEAs in Monterey County regarding collection, processing and reporting of sexual assaults.

The SSPD complies with all state mandates and employs contemporary best practices to investigate sexual assaults. The SSPD attends monthly meetings with other Monterey County Sexual Assault Investigators, including the District Attorney, to share information and coordinate any investigations which might involve other jurisdictions.

RECOMMENDATIONS

Recommendation 2 – By January 15, 2020, the governing bodies of all Monterey County LEAs should assign a representative to participate in the DA – led centralized reporting initiative.

As aforementioned above, the SSPD participates in a monthly meeting with the District Attorney's office regarding sexual assaults. The SSPD will continue to participate with the District Attorney's Office, and other law enforcement entities, to ensure crimes are properly investigated and coordinated.

Recommendation 3 – By July 1, 2019, every Monterey County LEA should report to the CDOJ the required data outlined in PC 680.4.

The SSPD reported by July 1, 2019, and will continue to report the required data to the CDOJ outlined in PC 680.4.

Recommendation 4 – By July 1, 2019, and annually thereafter, every Monterey County LEA should report to their governing body and the public the required data outlined in PC 680.4.

The SSPD will work with the Seaside City Attorney to determine what can publicly be reported and will annually report items related to PC 680.4 on the SSPD webpage.

Recommendation 5 – By July 15, 2020, every Monterey County LEA should develop a funding source, such as grants, for additional expertise training and recertification within the Sexual Assault and Forensic Division.

The SSPD consistently searches for grant opportunities and leverages any successful grant awards with the SSPD operating budget.

Recommendation 6 – By fiscal year 2020-2021, every Monterey County LEA should add or dedicate certified staff for Sexual Assault Investigations and include that increased cost in their budgets.

As was previously described, all SSPD detectives are California POST trained in sexual assault investigations. All of the SSPD detectives are assigned sexual assault investigations.

We hope that this information addresses the Grand Jury's findings and recommendations. Please contact SSPD Chief Abdul D. Pridgen if you have any questions or require additional information.

Respectfully,

Ian Oglesby

Mayor

APPENDIX F



CITY OF DEL REY OAKS

650 CANYON DEL REY RD. · DEL REY OAKS, CALIFORNIA 93940
PHONE (831) 394-8511 · FAX (831) 394-6421

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

September 1, 2019

Re: 2018-2019 Monterey County Civil Grand Jury Final Report – “Rape Kit Processing in Monterey County”

Dear Judge Hulsey,

This letter is written in response to the June 24, 2019 Monterey Civil Grand Jury Final Report - “Rape Kit Processing in Monterey County” (Report), and shall serve as the City’s response pursuant to Penal Code sections 933 and 933.05. The responses contained in this correspondence were approved by the City of Del Rey Oaks City Council at their regular meeting of August 27, 2019.

The City of Del Rey Oaks Police Department (the “Department”) understands its responsibility in investigating sexual assault reports in a professional and timely manner. The mission statement of the Department explicitly lists professional law enforcement and dedicated community service among its priorities. As you may be aware, the Department recently merged with the Monterey Regional Airport Police Department in an effort to improve efficiencies, and to provide higher quality services to the City and the Airport. As a result of the merger, the Department’s training budget for specialized investigations, such as sexual assault investigations, nearly tripled.

The Department has also initiated a Patrol Detective Program that strives to provide a level of investigative training to its investigators similar to those that larger agencies with full-time investigative staff are able to provide to their personnel. This includes training in the area of sexual assault investigation. The Department also participates in on-going and regular meetings with other law enforcement agencies and the District Attorney’s Office to discuss and coordinate sexual assault cases.

The City’s comments follow in the order that they were presented in the Report. The Report’s findings and recommendations are displayed in **bold type**. It should be noted that no in-person discussion of these laws, processes, or the Department’s procedures regarding sexual assault investigation or reporting took place between the Grand Jury and the City of Del Rey Oaks. Also, no officials from the Department were interviewed for this report.

Please note, for all of the following responses, the City of Del Rey Oaks can, of course, only provide information as it regards the City and the Department. The City cannot respond on behalf of other Monterey County Local Enforcement Agencies (LEAs) mentioned in the Report.

FINDINGS

Finding 1 – LEAs in Monterey County lacked awareness and provided unclear and inconsistent information as to whether there are any backlogged rape kits.

DISAGREE WHOLLY. The Department tracks and is aware of the status of sexual assault rape kits that have been collected in relation to investigations conducted by the Department. Due to Del Rey Oaks' low crime rate, and extremely low rate of sexual assault incidents requiring the collection of these kits, the Department does not have a backlog of such kits, and the kits are well managed.

Finding 2 – The lack of a centralized place to post information has resulted in a lack of consistency in the way that LEAs manage and track sexual assaults.

DISAGREE WHOLLY. The Department participates in regular meetings with other law enforcement agencies and the District Attorney's Office to coordinate sexual assault investigations as necessary. The Department is part of the Sexual Assault Response Team (SART), which works with Sexual Assault Nurse Examiners (SANE), during investigations. Any DNA evidence obtained is submitted to the Rapid DNA Service (RADS). The Department also reports the status of sexual assault forensic evidence through the Sexual Assault Forensic Evidence Tracking (SAFE-T) program through the California Department of Justice (CDOJ), as is required by Penal Code section 680.4.

Finding 3 – At the beginning of this investigation, not all the LEAs were prepared to report the Rape Kit status information to the CDOJ as required by PC 680.4.

DISAGREE WHOLLY. The Department has reported Rape Kit status information to the CDOJ as required by Penal Code section 680.4.

Finding 4 – There is advanced training available for sexual assault investigators, but LEAs are instead relying upon senior investigators to provide “on the job training to other investigators within their respective departments.”

DISAGREE WHOLLY. The Department is one of the smallest Police Departments on the California Central Coast. All Department personnel are assigned to patrol duties, except for the Chief of Police. The Department has no dedicated investigative staff, as department size and case load does not justify such a position. The Department has, however, initiated a Patrol Detective Program, in which selected officers are trained by the California Commission on Peace Officer Standards and Training (POST) and the Institute of Criminal Investigation (ICI), in courses for specialized investigations, including a sexual assault investigation course. When a sexual assault does occur, these specially trained officers are removed from patrol duties and are allowed to devote themselves full time to investigation of the assault. These officers are the primary investigators for sexual assault crimes in the City.

Finding 5 – Training for advanced skills in the forensics of sexual assault investigations is not prioritized in the budgeting process.

DISAGREE PARTIALLY. With the recent consolidation of the Monterey Regional Airport Police

Department and the Department, one of the priorities identified for the new combined department has been training. The Department *has nearly tripled its training budget* over the last two years to ensure critical patrol and investigation training is being provided to staff. This includes ICI sexual assault investigations training for the Department's Patrol Detectives.

Finding 6 – Some LEAs rely on cross-training less experienced patrol officers to supplement understaffed investigative teams rather than prioritizing the strategic increase of well-trained investigators.

DISAGREE PARTIALLY. The Department does not have the resources or case load to justify full-time investigators. It does, however, utilize a Patrol Detective Program that places a priority on training detectives in sexual assault investigations as previously described. Additionally, the Department has officers and sergeants that were previously assigned as detectives in other large urban California police agencies, including a 20-year Los Angeles Police Department supervisory gang-homicide detective. These personnel (as well as other selected officers) are highly experienced, well trained, have been through ICI courses, and have attended, or will be attending, sexual assault investigation training as described above.

Finding 7 – All jurisdictions can expedite the investigations of rape crimes through access to the RADS processing to facilitate timely resolution of rape cases.

AGREE. The Department has access to and utilizes the RADS processing system.

Finding 8 – Most LEAs in Monterey County have implemented DNA testing protocols established by the CDOJ which have reduced the likelihood of unprocessed DNA evidence.

AGREE. The Department has implemented DNA testing protocols that are in compliance with CDOJ guidelines.

Finding 9 – There is no centralized authority coordinating all LEAs in Monterey County regarding collection, processing and reporting of sexual assaults.

DISAGREE WHOLLY. The Department complies with all state mandates and employs contemporary best practices to investigate sexual assaults. The Department attends regular meetings with other Monterey County Sexual Assault Investigators, including the District Attorney, to share information and coordinate any investigations that may be occurring in other jurisdictions as is necessary.

RECOMMENDATIONS

Recommendation 1 does not apply to this agency.

Recommendation 2 – By January 15, 2020, the governing bodies of all Monterey County LEAs should assign a representative to participate in the DA – led centralized reporting initiative.

The Department will assign a representative to participate in the District Attorney led centralized reporting initiative upon its creation by the District Attorney's Office. (As previously described, the Department already participates in regular meetings with the District Attorney's office regarding sexual assaults. And will continue to do so going forward.

Recommendation 3 – By July 1, 2019, every Monterey County LEA should report to the CDOJ the required data outlined in PC 680.4.

This recommendation has been implemented. Prior to July 1, 2019, the Department report to the CDOJ the required data outlined in Penal Code section 680.4. Additionally, the Department will continue to report such data to the CDOJ going forward.

Recommendation 4 – By July 1, 2019, and annually thereafter, every Monterey County LEA should report to their governing body and the public the required data outlined in PC 680.4.

This recommendation has already been partially implemented. The Department will work with the Del Rey Oaks City Attorney's Office to determine what can publicly be reported and will report items related to Penal Code section 680.4 on the Department's webpage on an annual basis.

Recommendation 5 – By July 15, 2020, every Monterey County LEA should develop a funding source, such as grants, for additional expertise training and recertification within the Sexual Assault and Forensic Division.

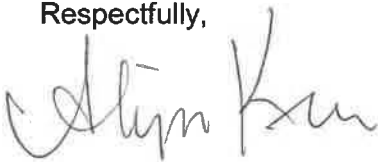
This recommendation has already been implemented. The Department continually researches grant opportunities, and leverages successful grant awards with the Departments operating budget.

Recommendation 6 – By fiscal year 2020-2021, every Monterey County LEA should add or dedicate certified staff for Sexual Assault Investigations and include that increased cost in their budgets.

This recommendation has already been implemented. As previously described, the Department has highly experienced investigative staff and has or will be sending all investigators through ICI courses, to include California POST approved sexual assault investigations training.

We hope that this information addresses the Grand Jury's findings and recommendations. Please contact Del Rey Oaks Chief of Police Jeffrey J. Hoyne should you have any questions or require additional information.

Respectfully,



Alison Kerr
Mayor

