

Note to Readers of this Report

Throughout this Report references are made to specific documents or information provided to the Grand Jury. These references are shown in *italics* and reflect actual spelling, punctuation and grammar that was contained in the source documents.

GUADALUPE – A CITY IN TURMOIL AND TRANSITION

INTRODUCTION

The City of Guadalupe is a city caught in political turmoil, unrest amongst various factions of local citizens and elected officials, and faced with difficult program service questions in light of declining budgetary resources. The November 2002 general election saw the reelection of the incumbent Mayor, and the election of two new members to the City Council. Prior to the November election, votes by the City Council were most often 3 – 2, with the Mayor in the majority. Since the new City Council was seated, the votes are more often 3 – 2, with the Mayor in the minority. The City Administrator resigned on January 13, 2003, and the longtime contract for legal services from the law firm of Kirk and Simas was terminated in February 2003.

Guadalupe is one of the smallest incorporated cities within Santa Barbara County. As of the 2000 census, the population of Guadalupe was 5,659. Of that total, 4,781, or 84.5 percent, were Hispanic or Latino. Guadalupe has 1,414 households with 1,217, or 86.1 percent, identified as family households. Of the total population, 64.4 percent, or 3,642 are age 18 or older. In the November 2002 election, 1,108 of the 1,899 registered voters in Guadalupe cast ballots.

During the course of this investigation, the Grand Jury identified some issues which were outside the scope of the Jury's authority, and referred them to the District Attorney for review and possible action.

OBJECTIVE

The Santa Barbara County Grand Jury became interested in examining several issues involving the City of Guadalupe after monitoring a prolonged legal battle concerning the public release of records for the Mayor's city-provided cell phone. In addition, a number of citizen initiated complaints were filed with the Grand Jury concerning various issues with the city government and officials. As the Jury began looking into the city government of Guadalupe, a number of additional situations were identified and investigated. These issues included:

- The Mayor's city-provided cell phone
- City of Guadalupe procurement policies
- The role of the Mayor and City Council members
- The administration of grants
- The relationship between the City of Guadalupe and the Guadalupe Chamber of Commerce
- Other related issues

PROCEDURES

During the course of the Grand Jury investigation a total of nine subpoenas were issued. Sworn depositions were taken from the Mayor, a city councilman, two consultants hired by the City of Guadalupe, and the City Administrator. In addition, subpoenas were issued for the financial records of the Guadalupe Chamber of Commerce, use records of the Mayor's city-provided cell phone, and copies of videos of numerous Guadalupe City Council and Redevelopment Agency meetings. An additional subpoena was issued for a copy of video tape interviews by a local television station with various elected City officials. Interviews were conducted with 44 local Guadalupe citizens, business owners and City employees, as well as officials of other cities, county, state and federal agencies. Investigation related documentation was secured from several city, county, state and federal agencies, and non-profit organizations.

THE MAYOR'S CITY-PROVIDED CELL PHONE

In February 2002, a group of local citizens began efforts to secure copies of the use records for the Mayor's city-provided cell phone. Non-redacted copies of the use records for the Mayor's city-provided cell phone for the period December 24, 2000 through October 23, 2002 were received under a subpoena issued by the Santa Barbara County Superior Court. After the request for cell phone records by the citizens' group, the Mayor's cell phone usage dropped.

The initial service plan selected by the City provided the Mayor with 900 minutes per month of use time. Three months after the service was initiated, the service plan was increased to 1,200 minutes per month of use time. In 11 of the first 12 months of use, the Mayor exceeded the service plan limits and incurred costs ranging from a low of \$107.15 to a high of \$344.07 for monthly service fees. Monthly cell phone usage during this same period ranged from a low of 900 minutes to a high of 2,180 minutes.

As noted earlier, following the request for cell phone records by the citizens' group, monthly usage ranged from a low of 391 minutes to a high of 895 minutes. Total cell phone usage during the 24 months of records reviewed was 25,553 minutes.

The Grand Jury contacted all other cities within Santa Barbara County to ascertain their policies in regards to providing city-paid cell phones to their mayors. No other city within Santa Barbara County provides an unrestricted-use, city-paid cell phone, to their mayor as the City of Guadalupe does. The City of Lompoc rents 40 cell phones, with a total plan limit of 6,000 minutes per month (this would mean an average of 150 minutes per phone, per month). The Mayor of Lompoc is provided one of these 40 phones. The Jury was told that this phone is used by the Mayor only in conjunction with City of Lompoc emergency response situations, and not for day-to-day communications.

The Guadalupe Mayor indicated his city-provided cell phone was a higher priority than additional funding for the City Police or Fire Departments. Of the Mayor's 5,621 phone calls, approximately ten percent (562) were for personal, non city-related business. The City Administrator did not know of any conditions placed on the Mayor's use of the cell phone and city employees did not review the cell phone bill during the payment process.

On December 3, 2002 the Guadalupe City Council approved a \$250 monthly cell phone stipend for the Mayor, in lieu of the City paying for his cell phone. Various City employees and elected officials indicated this was most likely done in an attempt to remove the cell phone records from being available for public scrutiny. When the new City Council was sworn in, and as part of the Fiscal Year 2002-2003 budget hearings, the cell phone stipend was placed on hold. As of May 1, 2003 the City continues to pay for the Mayor's city-provided cell phone.

FINDINGS AND RECOMMENDATIONS

Finding 1

The City of Guadalupe is the only city within Santa Barbara County which provides the Mayor with an unrestricted-use city-provided cell phone.

Finding 1a

The Mayor feels the need for his city-provided cell phone is of a higher priority than providing the equivalent amount of funding to the City Police and/or Fire Departments.

Recommendation 1

The Guadalupe City Council should review the current policy of providing a city-provided cell phone or cell phone stipend to the Mayor.

Finding 2

The Mayor exceeded the cell phone Service Plan minutes each month during the period February 24, 2001 through January 23, 2002, resulting in additional costs of \$1,097.35 to the City of Guadalupe for these extra minutes of use.

Finding 2a

Approximately ten percent of the phone calls made by the Mayor were for personal, non city-related business.

Recommendation 2

The Mayor should review the cell phone usage records for the months in which the Service Plan minutes were exceeded (February 24, 2001 through January 23, 2002), and determine the amount of minutes of personal non city-related calls which were placed during those months. The Mayor should reimburse the City of Guadalupe for the excess minute costs as a result of this personal use.

Finding 3

No audit procedures are in place to review the cell phone bill as part of the City payment process.

Recommendation 3

If the decision to continue to provide a city-paid cell phone for the Mayor is agreed to by the City Council, appropriate audit procedures should be established which provide for the review of monthly usage as part of the payment process.

CITY OF GUADALUPE PROCUREMENT POLICIES

The City of Guadalupe does not have a formal procurement policy. The lack of a written policy has created several issues which are of concern to the Grand Jury. These include potential nepotism issues, a lack of adequate procurement controls, and work being performed for the City by local individuals without city business licenses and/or not having required contractor licenses.

Landscaping Services

On April 26, 2000, the City Administrator for the City of Guadalupe entered into an Agreement For Services for landscaping services. This Agreement was for landscape maintenance of a publicly owned right-of-way in the Point Sal Dunes housing development. The Agreement called for a payment of \$333.33 per month, the equivalent of \$4,000 per year. Since this service was being provided by a company owned by a relative of the Mayor, the Grand Jury asked to see the procurement file to review the documented competition for this service. No competition for this service was sought by the City.

While the City Attorney advised the City Administrator that the City could retain the current contractor without competitive bidding, the City Administrator prepared the agreement and executed it without City Attorney review. The City Administrator should have had the agreement reviewed by the City Attorney.

Shortly after the Agreement was executed, the City Administrator received complaints from some of the residents of the Point Sal Dunes subdivision about the maintenance being performed. The City Administrator moved the landscaping work to the grounds of the Amtrak Station and Veterans building. This landscaping contract has continued to be renewed annually on a non-competitive basis. The current contract will expire on May 31, 2003.

Following the move of the landscaping work being performed by the first contractor from the Point Sal Dunes subdivision to the Amtrak Station and Veterans building, the City hired another landscape service, using competitive procedures, to perform the Point Sal Dunes subdivision work.

The Guadalupe Redevelopment Agency Facade Improvement Program

The Guadalupe Redevelopment Agency established a facade improvement program to improve the appearance of buildings which front on Guadalupe Street (the main street through Guadalupe). This program provided financial assistance to property owners along Guadalupe Street by helping to offset the costs of painting and repairing the facades of their buildings. One thousand dollars of financial assistance would be provided to the property owners for painting of the facades of their buildings upon submission of applications to the Redevelopment Agency.

The Grand Jury met with several of the owners who participated in this program. As a result, the Grand Jury had concerns about how this program was administered. A former member of the City of Guadalupe Planning Commission (Ex-Commissioner) secured copies of the application for the facade program. He would complete an application and take it to the individual property owner for signature. Following signature by the property owner, he would then take the application to the City Planner, who approved the application and ordered a "hand-check" to be issued by the City Finance Department.

The check was then given to the City Planner, who in turn provided it to the Ex-Commissioner. He then took the check to the property owner and told him he would paint the facade for \$750 if the owner provided the paint. If agreeable, the property owner was asked to endorse the check and the Ex-Commissioner took the endorsed check to the local bank and cashed the check. A cashier's check would be purchased for \$250 made out to the property owner, with the balance of \$750 given to the Ex-Commissioner, or deposited into his account at the local bank. The Jury found evidence of this process occurring in at least eight separate transactions.

This Ex-Commissioner had no City of Guadalupe business license, nor was he a licensed painting contractor. In addition, as of May 1, 2003, he has failed to complete all of the

painting jobs for which he received the \$750 from the property owners in April and May 2001.

A local property owner, who participated in the facade improvement program, filed a complaint with the State of California, Department of Consumer Affairs, Contractors State License Board against the Ex-Commissioner. This complaint was investigated by the Contractors State License Board and on November 20, 2002 this individual was cited for acting in the capacity of a contractor without a license and was fined \$750.

On March 19, 2003 the Grand Jury received from the State of California, Department of Consumer Affairs, Contractors State License Board a Certification of Non-Licensed Status which indicated that, based on a diligent search of the records of the Contractors State License Board, no record was found to indicate that the Ex-Commissioner was licensed as a contractor under the provisions of the law administered by said Board during the period January 1, 2001 to the present.

Another local property owner, when presented with a \$1,000 check under the conditions described above, became so incensed over what was happening that he personally met with the City Administrator. He returned the check and indicated how wrong he felt this was for the City to allow the Ex-Commissioner to hand deliver the checks to the property owners for endorsement. This property owner did not further participate in the facade program.

The City Administrator apparently had no knowledge about the Ex-Commissioner taking prepared applications to local property owners for signature, or how the applications were being processed and checks delivered to the local property owners.

When people called the City Administrator and asked if they must use the Ex-Commissioner's services, they were told they did not need to. The City Administrator was unaware that checks were being endorsed over to this individual.

Construction of The City-Owned Gazebo

In an effort to improve the downtown area, the City decided to build a gazebo adjacent to the city-owned parking lot. One City councilman volunteered to head up the effort of having the gazebo built, and contributed a tremendous number of hours overseeing and working on this project.

The design of the gazebo was completed by the Vandenberg Air Force Base Engineering Squadron, and is the same design as a gazebo which was designed for the City of Lompoc. The Guadalupe gazebo appears to have been built for a significant snow

loading. When asked, this city councilman agreed and further stated that over 28 cubic yards of concrete were used in the foundation.

The Grand Jury was unable to get an exact figure on how much was spent on the gazebo project. Cost of the gazebo ranged from \$12,000 estimated by this City councilman in charge of the project to \$31,703.15 based on City financial records. The City Council approved \$20,000 for the project. When the Grand Jury examined the financial records associated with this project, the Jury was dismayed to find that materials were purchased without competition and from businesses outside of Santa Barbara County. When asked, this councilman indicated he just went to businesses that he knew.

Another part of the project was completed by an individual without a contractor's license who, though a local Guadalupe business owner, did not possess a City of Guadalupe Business License.

The gazebo was built on private land adjacent to the City-owned parking lot on Guadalupe Street. On May 8, 2000, the City entered into a five-year property lease with the Masatani Family Trust for a 50' by 50' plot of land immediately adjacent to the city-owned parking lot. The lease for this land was for a total of \$3,000, payable in five equal installments of \$600 annually for the five-year period of the lease. Following the termination of the original terms of the five-year lease (May 31, 2005), continued occupancy of the premises will be a month to month tenancy at a rental amount of \$50 per month.

Under Section 6.02 Improvements, the lease states: *All such improvements shall be constructed in such a fashion that, at the termination of the lease, they can be completely removed from the Lease Premises and the same returned to its status quo ante. Lessee agrees to complete such removal at termination of the lease.*

The property lease was signed by the City Administrator for the City of Guadalupe. There is no evidence that this lease was reviewed and concurred with by the City Attorney.

Based on the design and construction of the gazebo, it is apparent to the Grand Jury that this structure cannot be moved. If the property owner exercises his right under Section 2.03 of the Property Lease, and cancels or terminates the lease, the City will have no practical means of relocating the gazebo.

The Downtown Parking Lot Mural

The City of Guadalupe Redevelopment Agency commissioned the painting of a mural on the side of a privately owned building which faces the south side of the city-owned

parking lot on Guadalupe Street. The mural was painted by a former citizen of Guadalupe, for which the City paid \$6,600.

In reviewing this particular transaction, there were a number of problems noted by the Grand Jury. No type of acquisition process was utilized by the City in selecting this particular individual to paint the mural. A proposal was presented to the City Council by the artist, and the Council agreed to have the painting completed. No formal papers were drawn up by the City which documented the specific conditions associated with the mural.

The owner of the building was asked if he would allow the painting of the mural on the side of the building. The owner indicated it would be okay. No formal agreement was developed by the City for the building owner to sign which would clearly define the terms under which the mural was being allowed to be painted on the building. The building owner was never told what the specific mural would be, just that it would be about the Guadalupe area. The building owner did not receive any written documentation prepared by the City which laid out terms of maintenance responsibilities for the mural.

The City Councilman who received the verbal approval from the property owner indicated no formal written authorization was prepared; it was just an informal verbal authorization from the building owner. If the building owner wanted to paint over the mural, he could do so and the City would be out the money paid.

This illustrates the lack of a formal procurement policy on the part of the City. Six thousand six hundred dollars of taxpayers' money was spent on the mural, with no clear written agreement between the City and the property owner. It was handled strictly as a verbal authorization between one member of the City Council and the property owner, which does not adequately protect the taxpayers' investment in the mural. In addition, it places the building owner in the unfair position of being exposed to possible public ridicule if the wall was painted and the mural removed.

The Grand Jury agrees that murals in the downtown area can help to enrich the downtown appearance and possibly help to attract visitors. However, the City must enter into arrangements such as this in a businesslike fashion and not with just the verbal permission approach as was done in this case.

City of Guadalupe Website

On December 7, 2001 the City of Guadalupe received a letter dated December 4, 2001, from Tech-Links Consulting Group, Re: City of Guadalupe / Web Site Development and Implementation. The first paragraph of the letter states: *The following is an invoice for development of a Web Site for the City of Guadalupe.* Further in the letter it states: *Tech-*

Links Consulting Group requires 100% payment in full upon agreement of the project bid (by both parties). The Mayor approved this project for payment in the amount of \$2,500 on December 7, 2001, and asked that a “hand-check” be prepared for payment. There is no evidence that this invoice or bid was reviewed by any parties other than the Mayor.

On October 1, 2002, Tech-Links Consulting Group wrote a letter to the Mayor indicating: *Due to non-participation of your City Council for the Web Page, I cannot complete the web page without their assistance. As you know we have repeatedly requested some 15 times by e-mail through your city clerks office basic data ie: pictures, bio and other. The last paragraph of the letter states: Please except my apology, but I feel my obligation has been met in spite of all the collusion by staff and certain council members. I request to be released from this project.*

The Grand Jury received a copy of an unsigned letter, not on a City letterhead, dated October 15, 2002, from the Mayor to Tech-Links Consulting Group which states: *Please accept this communication as a release of your obligations under the Agreement for the WEB / Intelligent Site. I will be advising Council the Project will be closed out as soon as the opportunity arises at an upcoming meeting.*

The Mayor had no authority to release a contractor from fulfilling the obligations of a contractual arrangement. The only party with such authority would have been the City Administrator, or by an affirmative vote of the City Council.

FINDINGS AND RECOMMENDATIONS

Finding 4

The City of Guadalupe lacks a formal procurement policy.

Finding 4a

There appears to be nepotism in the awarding of contracts and purchasing of goods and services by the City of Guadalupe.

Finding 4b

The City of Guadalupe is purchasing goods and services from individuals and companies located in Guadalupe without City of Guadalupe business licenses.

Finding 4c

The City of Guadalupe is receiving services from individuals and companies without a valid contractor’s license.

Recommendation 4

The City Council needs to adopt a formal procurement policy which addresses the methods and procedures which will be utilized by the City in the purchasing of goods and services. The policy should address the following: clearly state how potential nepotism issues will be dealt with, provide a requirement that all businesses with whom the City transacts business must have a valid business license from the city in which the company

is located, and that all individuals and companies providing services to the City, with a value of \$500 or more, must have a current contractor's license. Once adopted, this policy must be enforced by the City Administrator and the City Council.

Finding 5

The Guadalupe Redevelopment Agency Facade Program had many problems in administration of the program. It appears that some individual property owners who participated in this program still have not had the facades of their property painted.

Recommendation 5

The Guadalupe Redevelopment Agency should contact all Facade Program participants to determine if they have received the services agreed to with private companies. If the services have not been provided, or have not been completed, the City should seek appropriate legal remedies to ensure services are provided or completed.

Finding 6

The City hired a former Guadalupe citizen to paint a mural on the side of a privately owned building in downtown Guadalupe. No formal procurement procedures were used to contract for the painting of the mural. The City received only verbal approval from the building owner authorizing the painting of the mural on his building.

Recommendation 6

Any expenditure of public funds spent on non city-owned property should have an agreement developed which clearly defines responsibilities of the City and responsibilities of the property owner.

Finding 7

Individual members of the City Council and the Mayor each took actions independently committing City funds for goods and services.

Recommendation 7

In order to effectively manage financial resources, the City must restrict the Mayor and members of the City Council from independently committing financial resources of the City.

Finding 8

“Hand-checks” are frequently used by the Mayor, and occasionally by other City employees, to secure payments for vendors, contractors and for other purposes. The “hand-check” system is done outside the City’s integrated payment and accounting system. Use of “hand-checks” adds unnecessary work to the Finance Department in reconciling these types of payments with those made through the integrated payment and accounting system.

Recommendation 8

The City Administrator should develop a policy on use of the “hand-check” procedure and submit it to the City Council for review and approval.

THE ROLE OF THE MAYOR, THE CITY COUNCIL MEMBERS AND THE CITY ADMINISTRATOR

On the website for the City of Guadalupe, the Mayor defines his role as follows, and we quote:

- *To represent the City at ceremonial functions, to act as an Ambassador of Goodwill, and be a sort of Public Information adjunct.*
- *Serves as an advocate for the community. After careful consideration, I typically support efforts which may be of potential benefit to the mainstream community at large.*
- *Provides leadership in and around the community. A focus on positive efforts, accomplishments, and pathologies, is critical to proactive evolution. While decisions are not always carried by 100% concurrence, it is imperative the leadership provided respect and accept the democratic process. This means maintaining strength and integrity without compromising one's values.*
- *Represent the City on numerous county organizations and groups.*
- *Chair City Council meetings as the Presiding Officer, as well as have signatory authority on City warrants, upon determination of conformity by the Department of Finance.*
- *Be an initial point of contact for City business and affairs. Maintain liaison and relationships with public entities and legislators.*
- *Maintain a working relationship with staff. While it is not within the purview to 'micro-manage', it is important to maintain relationships with staff and remain sensitive to their needs and capabilities within the structure we have here, (i.e., limited budget and personnel). Understanding the City's capabilities and resources, coupled with priorities in a managed fashion, are part and parcel an everyday responsibility one must maintain.*
- *Availability to the public, as appropriate, is another responsibility one must subscribe to. While it may be tedious from time to time, it must be understood the responsibility to the public is inclusive of this as well.*

City Council members view their roles the same as the Mayor's. The only exceptions are the Mayor's role as the "figure-head" for the City in terms of ceremonial activities, chairing City Council meetings and, when necessary, signing City warrants. All of the Council members indicated that they had the same responsibilities as the Mayor in terms of serving as advocates for the community, providing leadership in and around the community, representing the City with county organizations and groups, maintaining working relationships with City staff, and being available to their constituents.

In terms of the relationship with the City Administrator they indicated that the position is supposed to report to the full City Council and not just to one member. They also agreed that direction for the City Administrator should flow from the entire City Council and not from individual members of the City Council.

It is in this context that the Grand Jury is very concerned with the actions of the Mayor in terms of sending numerous e-mails to the City Administrator which appear to provide explicit direction on what is and what is not to be done. In so doing, the Mayor usurps the role of the remaining City Council members and creates difficulties for the City Administrator.

Members of the Grand Jury have attended numerous Guadalupe City Council meetings throughout our term. These meetings frequently feature accusatory comments amongst the Council members, and typically feature rude and uncomplimentary statements by many members of the public toward various members of the Council or the City Administrator.

The Jury was pleased to see the interim City Attorney take a more active role in controlling the decorum at the City Council meetings and to draft and have the Council adopt Resolution Number 2003-04, A Resolution of The City Council of The City of Guadalupe, Adopting a Code of Ethics, Conduct and Procedures For Elected Officials and Members of Appointed Boards, Commissions and Committees.

The Resolution contains 15 sections including: act in the public interest, comply with the law, conduct of public officials, respect for process, conduct of public meetings, decisions based on merit, communication, confidential information, use of public resources, utilization of City staff, advocacy, policy role of the City Council, preparation of agenda, implementation, and compliance and enforcement.

This Resolution was adopted on a 3 – 0 vote, with the Mayor and one councilman abstaining. This is inconsistent with the statement made by the Mayor on his page of the City website where he states: *While decisions are not always carried by 100% concurrence, it is imperative the leadership provided respect and accept the democratic process.*

FINDINGS AND RECOMMENDATIONS

Finding 9

The City Council has a lack of understanding of appropriate relationships within the Council as well as the relationship of the entire Council with the City Administrator.

Recommendation 9

The City Council should consider some form of formal conflict resolution training for the Council and the City Administrator to gain a better understanding of the issues and actions which are causing the Council to operate in a dysfunctional fashion.

Finding 10

The Guadalupe City Council has adopted a code of ethics, conduct and procedures which sets out guidelines for the City Council, members of City boards, commissions and committees when conducting the public’s business.

Recommendation 10

In accordance with the newly adopted Resolution Number 2003-04, the Mayor must stop providing specific direction to the City Administrator, thereby usurping the role of the remaining City Council members.

Recommendation 10a

All members of the City Council must rigorously abide by the newly adopted Code and ensure that all members of City boards, commissions and committees are clearly advised of the City Council’s intent that this Code be followed.

**THE “GUAD 4”
TELECOMMUNICATIONS/TELECOMMUTING NETWORK GRANT**

In November 1998, the San Luis Obispo County Air Pollution Control District (SLO-APCD) entered into a Memorandum of Understanding with Unocal which established the Guadalupe Air Quality Mitigation Fund (Fund). The purpose and intent of the Fund were to provide a financing source for projects located in San Luis Obispo County and portions of northern Santa Barbara County capable of providing emission reductions to help mitigate the air quality impacts from the former Guadalupe Oilfield Clean-Up Project. Unocal provided \$890,000 to the Fund.

The SLO-APCD sought proposals for qualified projects from both the public and private sectors. The City of Guadalupe submitted a proposed project called the “Community Connections Project” in the amount of \$726,900. This proposed project requested \$239,400 in SLO-APCD Mitigation Funds and \$487,500 in matching funds from the Community Technology Advisory Council.

Based on an evaluation by the Guadalupe Air Quality Mitigation Fund Proposal Screening Committee, the project was recommended for funding with \$70,800 of mitigation funds, rather than the \$239,400 requested by the City of Guadalupe. Following this recommendation, the City of Guadalupe reworked the proposed project and resubmitted it to the SLO-APCD on September 25, 2001. This reduced funding level of \$70,800 was approved by the SLO-APCD and a formal Grant Agreement was entered into between the City of Guadalupe and the SLO-APCD on November 9, 2001.

The specific project approved by the SLO-APCD was spelled out in the following “Project Abstract” taken from Exhibit A, Statement of Grant Obligations, contained in the Grant Agreement:

Project Abstract:

Contractor (City of Guadalupe) shall utilize the grant funds specified in Article 4 (Compensation) of this Agreement to support the establishment and operation of a regional information network linking various government agencies and public facilities in the northern Santa Barbara and San Luis Obispo County regions. The project will allow agencies and the public to build and access a regional information clearinghouse with city, county, state and federal information resources. The project’s main goals are as follows:

- *Establish a Telecommunications / Network linking various local government agencies and public facilities in southern San Luis Obispo County and northern Santa Barbara County areas with state of the art high-speed digital communications technology; and,*
- *Promote a ‘private sector’ element by utilizing Chamber of Commerce and / or requesting limited access to the Public on a voluntary basis, in a micro sub pilot effort”; and,*
- *Increase awareness of modern high-speed digital telecommunications technologies and provide educational opportunities in the use of these technologies to both public and private sectors; and,*
- *Promote more effective interagency communication and involvement in regional decision making processes; and,*
- *Demonstrate the use of high-speed telecommunications technologies to reduce vehicle trips and provide air quality and transportation benefits.*

Exhibit A to the Grant Agreement also spelled out specific Project Management and Fiscal Mechanisms requirements. Some of these included:

- *The Mayor of the City of Guadalupe will serve as Project Director. Duties of the Project Director in the execution of this Agreement include preparation of reports, management of subcontractors, fiscal management and overall project oversight.*
- *Contractor may utilize grant funds to secure outside technical expertise (Contracted Element) as required. However, Contracted Element shall be required to provide Contractor weekly status reports documenting expenditures and services rendered.*

- *Upon receipt and collation of information, Project Director shall turn in written reports at least 9 times during the 12 month project.*
- *Actual contract for services shall be reviewed by City Staff, (Administration and Attorney), for appropriateness.*
- *Latitude shall be afforded at the beginning of the project for the purpose of billing or invoicing in advance to secure materials and begin project implementation.*
- *It is also understood, for purpose of fiscal and evaluative management, funds are set aside to one encumbered account and recording and tracking any fiscal matter shall be maintained by City's Financial Department.*

The Grand Jury became aware of this project and elected to review all aspects of the Grant for compliance by the City with the guidelines contained in the Grant Agreement. In the course of this review, the Jury identified several areas where serious questions can be raised concerning the actions of the Project Director, consultants and the overall status of the project.

As indicated earlier, the City submitted a reduced grant request to the SLO-APCD on September 25, 2001. Copies of files received by the Grand Jury included an e-mail message to the SLO-APCD staff which stated: *Hi -----: Attached you will find our amended proposal. If you have any questions please feel free to contact us at anytime.* The sender of this e-mail was not hired as a consultant for the project until December 7, 2001. This shows that an individual not hired by the City at the time was directly involved in preparing the revised grant request.

The Mayor, who served as the Project Director of this grant, hired two separate companies, Tech-Links Consulting Group and The Eclectic Connection (TECINC) without using any competitive procurement process. When the Mayor was asked by a member of the City Council about these two companies' qualifications to perform the work and what other companies he considered, the Project Director indicated he had sole authority over the grant and could hire anyone he wanted.

The Grant Agreement with the SLO-APCD was signed on November 9, 2001. Separate Consultant Service Agreements were entered into between the City of Guadalupe and Beverly Chapman, dba The Eclectic Connection (TECINC) on December 6, 2001 and with Nina Garrett, dba Tech-Links Consulting Group on December 7, 2001. Under the terms of the Consultant Service Agreements, Chapman was to receive a total of \$28,525 and Garrett a total of \$41,292. The total of \$69,817 represented all but \$983 of the total grant of \$70,800.

An invoice dated December 4, 2001 was prepared by Tech-Links Consulting Group in the amount of \$26,642. This invoice was for the first phase of the project and was prepared and dated three days prior to the signing of the Consultant Service Agreement.

The Mayor, as Project Director, approved the invoice on December 7, and requested preparation of a “hand-check” for payment. A payment of \$26,642 was made by the City on December 10, 2001. This initial payment represented 64.5 percent of the total amount to be paid under the terms of the Consultant Service Agreement and was made three days after signing of the Agreement.

An invoice dated December 6, 2001 was prepared by The Eclectic Connection (TECINC) in the amount of \$7,975. This invoice was for the first phase of the project. The Mayor, as Project Director, approved the invoice on December 10 and requested preparation of a “hand-check” for payment. Payment was made by the City on December 11, 2001. This initial payment represented 28 percent of the total amount to be paid under the terms of the Consultant Service Agreement and was made five days after signing of the Agreement.

Under terms of the Consulting Service Agreements both consultants were to provide weekly status reports documenting expenditures and services rendered. Neither consultant met this requirement. Similarly, the Project Director was to provide written reports to the SLO-APCD at least nine times during the 12 month project. The Project Director submitted only two of the required nine reports.

The Grand Jury subpoenaed copies of all original invoices and copies of canceled checks to support payment of the invoices issued to the Tech-Links Consulting Group. The consultant indicated all invoices had been provided to the Project Director. Some of the copies of invoices provided to the Jury had the appearance of being altered with the amount of the invoice being entered by a typewriter, while the remainder of the invoice was computer generated. In addition, the size of the type in the amount block was different from the font and type size in the remainder of the invoice. The consultant had no canceled checks to support the payment of the invoices. The consultant indicated she only deals in cash and does not have a checkbook.

Due to some practices associated with the grant, the SLO-APCD wrote a letter on August 6, 2002 indicating they were *having difficulties understanding some of the documentation, particularly the invoices for hardware and services performed*. Further the letter stated that *the remaining \$15,000 of the grant funding was going to be withheld until the issues could be resolved*. The Project Director did not respond to this letter.

On August 13, 2002 the San Luis Obispo County Counsel sent via facsimile a letter to the Guadalupe City Attorney indicating that the Director of the SLO-APCD had been unable to reach the Project Director. Furthermore, the letter advised the City Attorney of a planned site audit by the San Luis Obispo County Auditor on August 15, 2002 to review the requested material.

The City Attorney responded on August 15, 2002 to the County Counsel stating: *Because of the somewhat strained relationship which has developed over the above contract, the Mayor has asked me to review the matter. Further, he stated I have been asked to suggest the audit you request be conducted the afternoon of either Wednesday, August 21 or Thursday, August 28 at City Hall. Those are the first dates on which the Mayor, both consultants, and a representative from my office can be present for the audit.*

Key findings of the August 21, 2002 audit included the following:

- The City had purchased a Nextel phone service, utilizing funding from the grant. The SLO-APCD found that the purchase of this phone service did not meet *“the regional intent of the telecommunication grant”*.
- The Grant Funding Provisions contained no line item for purchasing such a phone system.
- The funds expended on the Nextel phone service will have to be redirected toward authorized project components with properly submitted documentation, or must be returned to the District for dissemination to other emission reduction projects.
- The expense documentation for the project as it currently stands would not meet the requirements of a full audit.

On October 17, 2002 the SLO-APCD sent an e-mail to the Project Director, asking specifically how the disallowed funds for the Nextel phone service had been redirected. The Grand Jury was unable to determine if the Project Director ever responded to this request.

On August 21, 2002 the City of Guadalupe hired a CPA firm in Santa Maria to do an audit of the GUAD 4 project to determine if the project was in compliance with the Grant Agreement. As part of the Grand Jury subpoena, the Project Director was asked to provide originals of all invoices received from the consultant for equipment purchases. The Project Director indicated he could not provide the invoices because he had submitted all of the originals to the CPA firm. This is in direct contradiction with a copy of a letter which the Jury received which states the CPA firm would be unable to complete the audit until copies of the invoices were provided by the Project Director. The estimated cost of this audit quoted by the CPA firm was between \$2,500 and \$3,500 plus \$200 of miscellaneous fees.

As of May 1, 2003 the invoices requested by the CPA firm still had not been provided to them by the Project Director. To date the City has paid \$1,575 as partial payment for this audit.

Additional problems noted by the Grand Jury with this project included:

- The grant application identified several different locations where web cameras were to be placed including: Nipomo, Oceano, Lompoc, Solvang and Buellton. The inference in the grant application was that these locations had already been agreed to by the appropriate officials. The Project Director had not made any contact with these locations prior to the submission of the grant application.
- The two consultants, while stating they had no partnership, could not provide a logical explanation to the Grand Jury why a still active “Fictitious Business Name Statement” file number 98-0048, dated January 6, 1998 with the San Luis Obispo County Clerk, showed that they were doing business as “The Eclectic Connection”. The Jury confirmed with the San Luis Obispo County Clerk that no abandonment of the partnership had ever been filed with that office.
- Although clearly stated in Exhibit A to the Grant Agreement: *actual contract for services shall be reviewed by City Staff, (Administration and Attorney), for appropriateness*, no evidence of this review is apparent on any of the Consultant Service Agreements signed by the Project Director.
- Under the terms of the Consulting Services Agreement with Tech-Links Consulting Group, specific types and quantities of equipment (computers, web cameras, etc.) were identified to be provided to the City. It is unclear as to whether all of the equipment specified was in fact provided by the contractor.
- The grant application identified specific locations where 14 web cameras were to be placed. The Grand Jury was never able to identify specifically where these cameras are located. In addition, at a recent demonstration of the system capabilities, a notice was included which stated free web cameras would be provided to the first ten individuals who signed up for the demonstration. It appears that these were the same web cameras purchased under the grant for specific locations.

Finding 11

The Project Director for the Guad 4, Telecommunication / Telecommuting Network Grant did not meet the requirements set forth in Exhibit A to the Grant Agreement concerning specific project management and fiscal mechanism requirements.

Finding 11a

Because of the Project Director’s failure to properly administer the Guad 4, Telecommunication / Telecommuting Network Grant, the City of Guadalupe had to absorb non-budgeted costs for the CPA firm audit, the payment for the disallowed Nextel phone system, and additional costs for the contract City Attorney.

Recommendation 11

The Guadalupe City Council should review carefully any grant application requests to ensure that individuals proposed as project directors or managers have the capacity and ability to fulfill these duties. Further, as a City policy, elected officials of the City should not be authorized to serve as grant project directors or managers.

Finding 12

Original invoices for all goods and services provided by the consultants have not been made available to the SLO-APCD, the Grand Jury or the CPA firm hired to perform the audit of the grant. Several copies of invoices provided to the Grand Jury appeared to have been altered.

Recommendation 12

The City Council should require that the consultants hired for this project provide to the Project Director and the City Council, the original invoices for all goods and services provided. These invoices should also be made available to the CPA firm to allow them to complete the contracted audit of the Guad 4 project.

Finding 13

It is unclear what specific equipment was actually provided by the Tech-Links Consulting Group as compared with the equipment identified to be provided by Tech-Links to the City of Guadalupe. This includes both quantity and type of equipment.

Recommendation 13

The City of Guadalupe should complete an inventory of all equipment provided by Tech-Links Consulting Group to determine the specific types and quantity of equipment, as well as the location of the equipment, procured as part of the Guad 4 grant.

**THE RELATIONSHIP BETWEEN
THE CITY OF GUADALUPE
AND THE
GUADALUPE CHAMBER OF COMMERCE**

The City of Guadalupe and the Guadalupe Redevelopment Agency have had a number of relationships with the Guadalupe Chamber of Commerce (Chamber). The Grand Jury looked at several of these relationships and found many questionable practices both on the part of the City as well as the Chamber. In addition, because the Chamber receives financial assistance from the City of Guadalupe, the Jury conducted a limited review of the financial transactions of the Chamber.

The initial relationship between the City and the Chamber began on May 1, 2000 when a Cooperative Services Agreement (Agreement) between the City of Guadalupe Redevelopment Agency and the Chamber was signed. Under the terms of this Agreement, the Redevelopment Agency paid the Chamber \$500 per month for rent

assistance. The Chamber was required to take certain actions for this assistance. These included the following:

- *The Chamber will establish and operate an office in the Guadalupe Redevelopment Project area.*
- *The Chamber will provide an information clearinghouse for small business development, and services and regulations for small business.*
- *The Chamber will develop a web-site for the Guadalupe Chamber of Commerce.*
- *The Chamber will enhance access to community and tourism information.*

At the time this first Agreement was signed, the Mayor of Guadalupe was serving as the non-paid Secretary for the Chamber. The Grand Jury could not determine if all aspects of the identified actions to be taken by the Chamber were completed as outlined above.

On July 12, 2001 the City Administrator signed as the Executive Director for the Redevelopment Agency, and on July 18, 2001 the President of the Chamber signed a new Agreement which continued the rent assistance of \$500 per month to the Chamber. The effective date of this action was for the period May 1, 2001 through April 30, 2002. This new Agreement specified one additional service to be performed by the Chamber which was not in the first Agreement. This additional service was *to promote the establishment of business in the Guadalupe Redevelopment Project area.*

The Redevelopment Agency issued two checks between May 1, 2001 and July 18, 2001, (date the Chamber signed the Agreement), for a total of \$1,000. The first Agreement expired April 30, 2001 and the second Agreement was signed by the parties on July 12th and July 18th. The Grand Jury could find no basis for the payments made between the ending of the first Agreement and the signing of the second Agreement. The City Council could have approved the new Agreement retroactively after the July 18th signing by the Chamber. Even though this action may have been taken by the City Council, the facts are that there was not a valid Agreement in place at the time the checks were issued for the May and June rent assistance.

Another Agreement covering the period May 1, 2002 through April 30, 2003 was signed by the City Administrator on May 14, 2002 and by the President of the Chamber on May 15, 2002. This new Agreement reduced the monthly assistance to the Chamber to \$350 per month. Since no checks had been issued between the period May 1 and May 15, 2002, the situation which occurred the previous year was avoided. The same five services identified in the 2001 – 2002 Agreement to be performed by the Chamber were continued in the third Agreement.

On January 11, 2001 the City of Guadalupe paid the Chamber \$200 for a stainless steel sink for the city-owned Royal Theater. On May 8, 2001 the City also paid the Chamber

\$400 for reimbursement of drywall work done by a local Guadalupe citizen at the Royal Theater. Both of these items were paid from an Earthquake Retrofit account of the Guadalupe Redevelopment Agency. The Grand Jury could find no basis that this work should have been performed by the Chamber nor was the use of Earthquake Retrofit funds appropriate. There is no existing Agreement between the City and the Chamber dealing with this type of activity. The President of the Chamber indicated the sink was one that her husband had left over from a construction job, the Chamber had paid him \$200 for the sink and this was strictly a reimbursement from the City.

Another series of Cooperative Service Agreements was entered into between the City of Guadalupe and the Chamber. These Agreements were the subject of a great deal of the Grand Jury's time in looking at the relationship between the City and the Chamber.

Beginning in July 2000, the City and the Chamber jointly sponsored an Annual Independence Day Fireworks Display. Under the terms of the Agreement, the City paid for the actual fireworks display and the Chamber paid for *all other aspects of the event, such as entertainment, insurance and other expenses*. Troubling to the Grand Jury was the "Now therefore" clause of the Agreement which stated *the City and the Chamber do hereby agree that donation funds received by the City for the Second Annual Independence Day Fireworks Display shall be transferred to the Chamber for payment of all expenses except the fireworks display itself*.

The Mayor sent an e-mail to the City of Guadalupe Finance Director stating *FYI, I have been soliciting donations for our upcoming Independence weekend activities, (i.e., fireworks, booths, marketing, music, entertainment, queen contest, etc.). I expect we (City), will begin receiving donations in the near future to facilitate the activities the Chamber of Commerce will be developing in support of the Pyrotechnic Display and other. I have requested the resources be made out to the City of Guadalupe for the Independence Weekend activities, with pass through checks to be made directly by the City to the Guadalupe Chamber of Commerce to facilitate the activity*.

The Finance Director responded to the Mayor's e-mail stating *It would be better if we bypassed the City books, and donations were made directly to the Chamber account with Mid-State Bank (July 4th Fireworks)*. No response was returned from the Mayor to the Finance Director's e-mail.

The former president of the Chamber stated the donations were made to the City of Guadalupe, rather than directly to the Chamber, because *The Guadalupe Chamber of Commerce has not completed – it takes a long time to get your Federal Status 501(c)6. We have retained an attorney to do all that. But at that point in time, it was not complete and that means companies cannot deduct donations at the Federal level. At that point in time they sent them there (City of Guadalupe) for that purpose*.

The Grand Jury completed a limited review of the Chamber financial records. This included an examination of the two checking accounts utilized by the Chamber, as well as the documentation to support payments. The Jury found the financial records to be inadequate to support many of the payments. In reviewing the Special Events Account, of 32 checks written against the account only 10 checks had invoices to support the payment. In another case, a check was written in the amount of \$300 with no payee. This check was cashed by a local bank with no endorsement on the back of the check. The Jury was unable to find what this check was issued for, or to whom.

Further complicating the relationship of the City with the Chamber was the apparent assignment of the Chamber's building lease to The Community Connection, Inc. The President of this corporation is the former president of the Chamber. In addition, the treasurer of the Chamber also has signing authority for the checking account of The Community Connection, Inc.

There is no clear distinction between the financial transactions of the Chamber and those of The Community Connection, Inc. The Grand Jury identified four checks totaling \$5,400 written on the Chamber's Special Events Account that were deposited into The Community Connection, Inc. checking account. The Grand Jury asked for clarification on these four checks from the Chamber.

The Chamber reviewed these four financial transactions and reported that of the total \$5,400 written against the Special Events Account of the Chamber and provided to The Community Connection, Inc. \$1,325 was for July 4th related costs. The remaining funds were for rent, utilities, postage, office supplies and salaries. The latter costs were clearly not related to the July 4th event and were outside the scope for which the contributions were made.

In 2001 the Chamber received \$21,000 in contributions for the July 4th celebration. In addition, another \$7,870 was received from ticket sales, vendor booth rentals and event proceeds. Thus the Chamber had total revenue of \$28,870 associated with the event. Total costs to the Chamber for all activities associated with the event were \$16,262. The Chamber had an apparent profit from the 2001 July 4th celebration of \$12,608.

On February 1, 2001 the Guadalupe Chamber of Commerce received a Santa Barbara County Economic Development Advisory Committee grant in the amount of \$45,700 for office renovation, furniture, computer hardware, website development and brochures for the Chamber of Commerce/Business Assistance Center. The grant included the following components:

• Site Improvements	\$11,000
• Furniture and equipment	13,000
• Website Development and Maintenance	3,500
• Professional Brochures	2,700
• CD-Rom Business Cards	3,500
• Staffing	<u>12,000</u>
Total	\$45,700

Under the terms of the grant, Exhibit A, Statement of Work – Scope of Services, the contractor (Guadalupe Chamber of Commerce) was to design, facilitate and operate (for 6 months) a Career, Business and Visitor Center in the community of Guadalupe. This included tenant improvements and equipment acquisition. Specific facility improvements and products to be accomplished were:

- *Improvements to the physical building to upgrade wall, window, lighting and floor treatments that will give a professional and eclectic atmosphere conducive to learning.*
- *Partition walls and furnishings to create four office spaces, a resource work station, library, conference room and visitors center. These spaces will be leased to service providers.*
- *Equip center with five computer work stations, copier, fax and a career, business and law library open to the public 40 hours per week.*
- *Create a brochure and web page that bring to light the positive resources (tourist attractions) of Guadalupe and the County of Santa Barbara.*
- *Create a CD-ROM card that will be used to encourage industry to locate in the City of Guadalupe.*

The Chamber received grant payments of \$22,850 on March 8, 2001; \$18,280 on October 2, 2001 and \$4,570 on December 28, 2001.

It appears to the Grand Jury that the office, located at 873 Guadalupe Street, which houses the Chamber is being run by the President of The Community Connection, Inc. All rent and utility payments are being made by The Community Connection, Inc. The Chamber now pays rent to The Community Connection, Inc. Businesses which lease space in this building also make payments to The Community Connection, Inc. This being the case, it raises serious questions about the investment made via the grant awarded by the County of Santa Barbara to the Chamber.

Another issue which the Grand Jury reviewed involved a Community Block Grant received by the City of Guadalupe on October 12, 1999 from the State of California, Department of Housing and Community Development, Division of Community Affairs. This Block Grant number CDBG P/TA #99-EDBG-639, was awarded in the amount of

\$35,000 for the development of an industrial park marketing plan for the City of Guadalupe. The grant had an expiration date of December 31, 2000.

The City contracted, for \$35,000, with the Santa Maria Valley Economic Development Association to complete this marketing plan. On October 19, 2000 the Santa Maria Valley Economic Development Association entered into a Professional Services Agreement with the Chamber to complete three tasks, all of which had to be completed by November 30, 2000. This agreement, for \$15,000, identified the following tasks to be accomplished by the Chamber:

- *To gather information to complete a parcel map identifying the location of existing infrastructure in relation to the existing industrial/commercial properties within the City of Guadalupe.*
- *Create a new parcel map which identifies additional infrastructure requirements for the development of an industrial park. As well as identification of any environmental issues concerning industrial/commercial properties.*
- *Conduct a survey of existing industries in the community and gather data on the type of industry, size of facility, number of employees, job classifications, pay scale and expansion or reduction plans of the company.*

This Professional Services Agreement was signed for the Chamber by Beverly Chapman, President of the Chamber.

On June 1, 2001 The Eclectic Connection (TECINC) submitted a proposal to the Guadalupe Chamber of Commerce to complete the three tasks outlined above. In the proposal, it states *Beverly Chapman will complete all tasks as set out in the Guadalupe Chamber of Commerce contract (Professional Services Agreement) with Santa Maria Valley Economic Development Association task 1 - 3 and will receive payment for necessary costs of maps in the amount of \$2,500 and all other work will be pro bona and valued at \$12,500 which will be used as leverage for other grants.* This proposal was submitted by Beverly Chapman, owner of The Eclectic Connection. Mrs. Chapman signed the Professional Services Agreement with the Santa Maria Valley Economic Development Association, as the President of the Guadalupe Chamber of Commerce, and then contracted through her business, The Eclectic Connection, to perform the work for the Chamber.

The remaining \$12,500 from the \$15,000 payment from the Santa Maria Valley Economic Development Association was used by the Chamber to pay for cost over-runs which the Chamber had from the Santa Barbara County Economic Development Advisory Committee Grant for development of the Chamber's office.

Finding 14

Several Agreements have been executed between the City of Guadalupe and the Guadalupe Chamber of Commerce. The Grand Jury has identified problems associated with these Agreements.

Recommendation 14

All Agreements need to include a provision for financial audits of the Chamber's books to determine that funding associated with the Agreements is being spent properly by the Chamber.

Finding 15

The Santa Barbara County Economic Development Advisory Committee approved a grant in the amount of \$45,700 to the Guadalupe Chamber of Commerce for office renovation, furniture, computer hardware and software, and office staffing. The current relationship between The Community Connection, Inc. and the Chamber regarding who is operating the facility for which these funds were received is unclear. In addition, no inventory of the furnishings, equipment and hardware currently located in the facility is available.

Recommendation 15

The Santa Barbara County office of the Auditor – Controller, and the Santa Barbara County Counsel's Office should review the grant made by the Santa Barbara County Economic Advisory Committee to the Guadalupe Chamber of Commerce, to determine if the current relationship between The Community Connection, Inc. and the Guadalupe Chamber of Commerce is consistent with the terms and conditions of the grant. The Santa Barbara County Housing and Community Development Department's Economic Development Advisory Committee needs to oversee a full inventory of all furnishings, equipment and hardware currently located in the facility and to determine the legal owner of the items inventoried.

Finding 16

The Mayor made direct requests from businesses in Santa Barbara County for donations to the Chamber. These requests were paid to the City of Guadalupe which served as a pass through to the Chamber.

Recommendation 16

Members of the City Council should abstain from soliciting donations for groups and organizations. Any fund solicitation should only be for official city programs and/or purposes.

AFFECTED AGENCIES

City of Guadalupe

Findings 1, 1a, 2, 2a 3, 4, 4a, 4b, 4c, 5 - 10, 11, 11a, 12, 13, 14, 16
Recommendations 1 – 14, 16

Santa Barbara County Auditor – Controller

Findings 15
Recommendations 15

Santa Barbara County Housing and Community Development Department

Findings 15
Recommendations 15

Santa Barbara County Office of County Counsel

Findings 15
Recommendations 15