

2014-15 Santa Barbara County Grand Jury



FINAL REPORT

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**2014-15 SANTA BARBARA COUNTY
GRAND JURY**

FINAL REPORT

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**GRAND JURY
SANTA BARBARA COUNTY**

June 30, 2015

Dear Presiding Judge Garcia:

On behalf of the 2014-15 Santa Barbara County Grand Jury, I am honored to present this Final Report to you and the residents of our county. The individual reports contained within this Final Report have been posted to the Grand Jury website at www.sbcgj.org , and are available to the public.

The members of the Jury represent a diverse group of dedicated individuals from all the supervisorial districts of the county. They have been noteworthy in the high level of research and detail presented in each of its reports such as the *Santa Barbara Sheriff-Coroner's Bureau* report; *Guadalupe Shell Game Must End* report; and the *City of Santa Barbara Zoning Information Reports*. In each of our reports you will find well researched and documented findings and recommendations and we look forward to succeeding Grand Jury follow-up on the progress of our efforts.

I want to extend the Jury's appreciation to you, Judge Garcia, for your ongoing help and support throughout the year. Also, I want to express our gratitude to Martin McKenzie, the Jury's legal advisor, for his guidance on legal matters. Both of you have reviewed all of our reports, made appropriate comments, and have expedited the release of the reports to the citizens of our county.

I want to acknowledge the hard work, dedication, and year-long commitment of the entire Grand Jury in their service to the residents of Santa Barbara County. It has been an honor for me to serve with this outstanding Jury.

Sincerely,

A handwritten signature in cursive script that reads "Smiller".

Sandi Miller

Foreman, 2014-15 Santa Barbara County Grand Jury

2013-14 SANTA BARBARA COUNTY

GRAND JURY MEMBERS

Dawn Barnier	Santa Barbara
Barbara Breza	Solvang
Mary Frink	Santa Barbara
Travis E. Gibbons	Santa Barbara
Edward Gibbs	Santa Barbara
Gary Keefe	Lompoc
Roland W. Kelly	Santa Maria
Mel Kimlinger	Lompoc
Barbara Landon	Los Alamos
Cole Lucas	Santa Maria
Linda Mier	Santa Barbara
Sandra Miller	Solvang
Maria Millsaps	Lompoc
Jerry Mrozek	Orcutt
Pamela Olsen	Santa Barbara
John Richards	Orcutt
Lorelei Snyder	Santa Barbara
Ted Sten	Summerland
Kathleen Werner	Goleta

2014-15 Santa Barbara County Grand Jury



Back row: Ted Sten, John Richards, Dawn Barnier, Pam Olsen, Mel Kimlinger

Second row: Gary Keefe, Cole Lucas, Jerry Mrozek, Ed Gibbs, Travis Gibbons, Mary Frink

Front row: Kathleen Werner, Barbara Landon, Maria Millsaps, Sandra Miller, Lorelei Snyder
Barbara Breza, Linda Mier

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Guadalupe Shell Game Must End

GUADALUPE SHELL GAME MUST END

SUMMARY

The 2014-15 Santa Barbara County Grand Jury (Jury) received numerous requests to investigate the financial condition of the City of Guadalupe (City). Three previous Juries have looked into similar issues in Guadalupe. In May 2003 the Jury found “A city in turmoil”, troubled by “...unrest amongst various factions of local citizens and elected officials...”, and faced with “....declining budgetary resources.” In June 2006 the Jury noted that “...little if anything had changed.”

In the Grand Jury report dated March 2008, the Jury followed up and found reason for optimism: “...positive changes.....including a city council working together...” with goals to increase employment, housing, tourist activities and revenue for the city. However, the 2008 City Council (Council) was not successful and the current investigation of 2008 financial reports show continuing patterns of inappropriate financial actions during that period.

Clearly, Guadalupe continues to be a city in trouble, caused by over 12 years of repeated financial mismanagement, improper transfers of money from restricted funds to the General Fund, years of deficit spending, uninquisitive and undertrained city council members, and overworked employees, many of whom have or had little training or background for their positions.

Based on its investigation in 2014-15, this Jury has concluded that Guadalupe continues to have ongoing financial problems that are not easily solved because of insufficient General Fund revenue to pay for its day-to-day operations. It is a continual shell game, moving money from one account to another to keep the City afloat.

INTRODUCTION

The City of Guadalupe (City) was founded in 1840 adjacent to the sand dunes that lead to the Pacific Ocean. The City was incorporated in 1946 when the main north/south route through central California was Highway 1, which runs right through town. US Highway 101, built approximately 10 miles to the east of Guadalupe through the City of Santa Maria, has isolated the City, stifling economic development and causing economic decline. In 2013, the population of Guadalupe was 7,225. The City is a general law city governed by an elected City Council, with a mayor and four council members. Guadalupe has 47 full and part-time employees, including a City Administrator, a Finance Director, a part-time Human Resources Director, and a Director of Public Safety.

The median home value is approximately \$285,000, the lowest of all cities in Santa Barbara County. The community is largely agricultural, with an average per capita income of approximately \$22,000. Approximately 25 percent of the City’s General Fund revenue comes from property taxes.

In 2013, Guadalupe's per capita sales tax revenue was \$44, compared to the average of all Santa Barbara County cities of \$224, and an overall average for the county, including unincorporated areas, of \$150 per capita. There are no supermarkets, (although there is a small local market) and very few retail or eating establishments, and thus very little sales tax revenue for the General Fund. Approximately six percent of the City's General Fund revenue comes from sales tax.

There are no hotels in Guadalupe, and therefore no Transient Occupancy Tax (bed tax) revenues for the General Fund.

Over the summer of 2014, the Jury received numerous requests to investigate alleged inappropriate transfers from restricted funds to the City's General Fund. In the course of the Jury's investigation, evidence of inappropriate transfers was indeed found, as well as several other significant issues.

METHODOLOGY

The Jury's investigation consisted of interviews with elected officials as well as current and former city staff. The Jury also visited the City of Guadalupe and reviewed hundreds of pages of City Council meeting minutes, audited financial statements, expense registers, reports from outside consultants, applicable rules and regulations, and additional information provided by Council and City staff.

OBSERVATIONS

Over the past 12 years or more, Guadalupe's elected and reelected leaders (see Appendix A) have neither requested nor been given the necessary training to effectively execute their respective offices. The Council has sometimes relied, without serious inquiry, on unqualified,¹ incompetent and/or overworked staff. In some cases, staff deceptively failed to inform the Council of financial issues. More detailed information may be found in previous Grand Jury reports.² The City's auditors have repeatedly called attention to miscoding, misallocation, questionable fund transfers and year-end closing issues.

The audit reports for 2012 and 2013 questioned whether or not the City can "continue as a going concern." The June 30, 2013 audit Note 17: Going Concern, states "The consistency of key revenue sources still remains unproven. The General Fund must experience the reversed trend over the long-term in order to be considered permanently solvent. This set of circumstances has raised substantial doubt about the City's ability to continue as a going concern."³ Previous annual audits of the now defunct City of Guadalupe Redevelopment Agency included the same concern.

The Jury also doubts that, fiscally, the City of Guadalupe can continue "as a going concern." Since 2002 the Jury repeatedly found the City operated in a fiscally irresponsible manner.⁴ This Jury estimates that over the past 12 years, the City's General Fund revenues have cumulatively fallen short of operating expenses by approximately \$7,600,000 (see Table 1). The City inappropriately transferred this amount

¹ 2005-06 Santa Barbara County Grand Jury Report www.sbcgj.org

² 2002-03, 2005-06, 2007-08 Santa Barbara County Grand Jury Reports

³ 2012 and 2013 Audit Reports City of Guadalupe and Guadalupe Redevelopment Agency

⁴ 2002-03, 2005-06, 2007-08 Santa Barbara County Grand Jury Reports

GUADALUPE SHELL GAME MUST END

from restricted funds to the General Fund, over and above the reasonable allocations allowed by Generally Accepted Accounting Principles, without written loan and repayment agreements. Due to the fact that restricted funds have been used in this manner, these funds are now in fiscal difficulty, and in some cases rate increases have been implemented to pay for negative balances in said funds. Based on the fact that inappropriate transfers averaging over \$630,000 annually have been made, it is clear that the City's General Fund revenues do not provide enough money to pay for day-to-day operations in Guadalupe.

**Table 1.
Actual and Estimated Excess City of Guadalupe Interfund Transfers**

Fiscal Year	Expenses of Overhead Depts.*	Appropriate Interfund Transfer for Allocation**	Actual Interfund Transfer***	Excess of Actual over Appropriate Interfund Transfer
2002-03	\$725,067	\$471,294	\$847,471	\$376,177
2003-04	\$609,290	\$396,039	\$838,780	\$442,742
2004-05	\$722,960	\$469,924	\$934,552	\$464,628
2005-06	\$710,631	\$461,910	\$918,276	\$456,366
2006-07	\$739,678	\$480,791	\$1,237,840	\$757,049
2007-08	\$940,715	\$611,465	\$1,511,940	\$900,475
2008-09	\$843,429	\$548,229	\$1,561,400	\$1,013,171
2009-10	\$871,668	\$566,584	\$1,669,944	\$1,103,360
2010-11	\$793,371	\$515,691	\$1,533,923	\$1,018,232
2011-12	\$850,657	\$552,927	\$1,242,561	\$689,634
2012-13	\$930,615	\$604,900	\$923,586	\$318,686
2013-14	\$914,400	\$594,360	\$660,000	\$65,640
<i>12 Year Cumulative Budget Deficits - Total</i>				\$7,606,160
<p>*Includes City Council, Administration, City Attorney, and Finance Departments. **65% of total overhead given by City of Guadalupe ***Source – City of Guadalupe</p>				

The Jury found the following examples of misfeasance during this investigation:

- Elected Officials Essentially Received no Training When First Assuming Office
- Inexperienced and Unqualified Staff
- 82 Mishandled and Misfiled IRS W2 Forms
- Solid Waste Fund Inappropriate Accounting Practices
- Inappropriate Interfund Transfers
- Inappropriate use of State Gas Tax Funds
- Failure to Meet the Minimum Spending Obligation for Street Repairs under Measures A and D
- Wastewater Fund Deficit
- Additional Debt/Loans

Inadequate Training

Each member of the City Council the Jury interviewed confirmed that, with the exception of a short introduction to Brown Act requirements, they received essentially no training when first assuming office. Nor did they ask for any training. Similarly, several past employees said that they had basically been thrown into the job and told to learn as they went along. Many of the issues identified by the Jury and listed above stem from this lack of knowledge and training. The Jury learned that, prior to 2012, there was no adequate financial reporting to the Council in open session, and the City accounting processes did not follow Generally Accepted Accounting Principles.

Member after member of the Council confirmed that they didn't really understand the financial reports they routinely received, that they relied on the staff's reassurance that everything was being handled properly. Year after year, the Council voted to accept budgets presented by staff without much questioning. Many council members appeared uncomfortable with the whole subject of financials and budgets.

Inexperienced and Unqualified Staff

A 2007-08 Grand Jury report found that a finance director for the City had been hired who “did not know how to balance the books.” A former City Administrator told the current Jury his predecessor had no government experience and that a Human Relations employee was hired who had no Human Relations experience. In reaction to the revelation to the City Council of a long-standing deficit in the solid waste fund, a former Mayor was quoted as saying, “Sadly, you are in this position because former staff have not done their jobs.” The former Mayor added, “Quite frankly, to have a negative balance for 13 years, starting in 2001, having an audit comment since 2005 and having no recommendations to the Councils to do anything about it, is really pretty inexcusable.”⁵ It should be noted that audits were provided to the City Councils and there is no indication that members of these councils ever inquired into the noted deficits.

Mishandled and Misfiled W2 Forms

In 2006, 41 Internal Revenue Service (IRS) W2 forms were incompetently filed with errors by City staff. In an attempt to correct the initial errors, an additional 41 forms were filed with errors, compounding the problem. Although the City was apparently notified by the IRS of the tax errors in July, 2009, the Jury has no evidence that staff at that time informed the City Council. Over subsequent years escalating penalties were levied by the IRS. The IRS is now attempting to collect over \$456,000 in taxes, interest and penalties. The City recently hired a consultant, at additional cost to the City, to resolve this matter with the IRS.

Solid Waste Fund Inappropriate Accounting Practices

The City contracts with a vendor for solid waste collection. The City bills and collects for this service without compensation and remits payments to the vendor, in accordance with the contract. The Solid Waste Fund has been running a deficit for a number of years because it has been paying more to the contractor than it has collected from the customers. The vendor charges the City for 180 more customers than the City bills, at a \$4,000 per month loss. “This inappropriate practice is largely responsible for the \$240,100 negative financial position in this fund: stated simply, the City has remitted more to the vendor than it has collected.”⁶ A rate increase has been approved to cover the negative fund balance by June 30, 2020. The City intends to begin negotiations with the vendor to do its own billing and free the City of

⁵ Noozhawk.com 12/11/2014 “New City Council in Guadalupe Deals with Old Financial Woes”

⁶ Financial Assessment Memorandum, William C. Statler, August 18, 2014

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the billing tasks and costs.

Inappropriate Interfund Transfers

The City's many years of inappropriate transfers of restricted funds to the General Fund were revealed in 2014 (see Appendix B). Cities maintain certain funds earmarked (restricted) for specific purposes; so-called "special funds" and/or "enterprise funds". The inappropriate transfers of restricted funds included money from the State Gas Tax and County Measure A and also money intended for lighting, solid waste, water, and waste water treatment funds.

Generally Accepted Accounting Principles allow a city to allocate a "reasonable" portion of its general overhead to the special funds, in acknowledgment of the personnel time required to administer the funds. The amount allocated should be based on a documented cost allocation plan. In a larger city, the percentage of general personnel time and compensation (or "overhead") charged to special funds might be 10-15 percent (or less) of the total overhead. In Guadalupe, because it is a comparatively small city, with the City Administrator also supervising several departments, the reasonable allocation percentage should be approximately 65 percent, which was publicly acknowledged by current City officials.

However, over the past 12 years, Guadalupe has allocated between 99 percent and 193 percent of overhead cost to the General Fund from the special funds (see Appendix B). For example, in fiscal year 2010-11, overhead expenses for Guadalupe totaled \$793,371. But \$1,533,923 was billed as "overhead allocation" to the various special funds administered by the City for an allocation percentage of 193 percent.

Over the past 12 years, the Jury estimates that these inappropriate transfers totaled over \$7.6 million (see Table 1). These funds should have been spent on specific projects for which the money was collected such as repairing streets and other infrastructure, and building a reserve to handle emergencies. The money was instead inappropriately diverted to the General Fund to pay for various City operations such as police, fire, City Council, administration, City Attorney, Parks and Recreation, building maintenance, permits, and Finance.

The Guadalupe City Council has, for over 12 years, been using these General Fund overhead allocations as a way to cover ongoing budget deficits. These interfund transfers could have been appropriate if the City had put in place loan agreements with repayment schedules, and the City Council had approved them by resolution. Witness after witness confirmed that no such agreements exist and the City Council never approved such loans.

The current City Administration recognizes the need to follow Generally Accepted Accounting Principles. On November 25, 2014 the Guadalupe City Council unanimously approved a \$575,000 loan to the General Fund from the Water Enterprise Fund and the Lighting District to cover the projected General Fund deficit for fiscal years 2013-2014 and 2014-2015. This action was taken by resolution and included a 10 year repayment schedule.

Inappropriate use of State Gas Tax Funds

Guadalupe has, on multiple occasions, used State Gas Tax funds for purposes other than those expressly allowed by Section 330, page 3, Table 1 of the "Guidelines Relating to Gas Tax Expenditures for Cities

and Counties”, published by the California State Controller's Office in 2004. Over the last 12 years, the City has transferred funds which exceeded the amount allowed from state gas tax funds to the General Fund (see Appendix B), which is expressly prohibited by Article XIX of the California Constitution.

Also from the Gas Tax guidelines, allocations of overhead “...will only be allowed via an approved cost allocation plan or an equitable and auditable distribution of overhead to all departments.” Until just recently, the City had neither a Council approved cost allocation plan, nor an equitable distribution of overhead to all departments. Loans from Gas Tax Funds can be made to a General Fund, but they must be repaid during the same fiscal year that the loan was made.

Failure to Meet the Spending Obligations for Street Repairs

Guadalupe did not meet the minimum Maintenance of Effort obligation on street repairs to continue to qualify for county Measure D (subsequently replaced by Measure A) funding,⁷ which resulted in a temporary suspension of Measure D funding during April to June, 2010.

Wastewater Fund Deficit

The City of Guadalupe has been described to the Jury as a City that operates on a day-to-day basis from one emergency to another. The City has no reserve funds for emergency repairs or capital improvements to the infrastructure. The fiscal effect of operating the City in this way was seen on October 29, 2013, with the failure of a main sewer line. The construction was completed on August 15, 2014 at a cost of \$540,000. The entire expense was unbudgeted and the Wastewater Enterprise Fund was left with a negative cash balance of \$610,000.

Contributing to the mounting deficit in the Wastewater Enterprise Fund are loan repayments the City must make to the State. This money was borrowed from the Bond Refinance Fund of the former Redevelopment Agency (RDA) in August 2006 to fund wastewater improvements in the City. According to a City Staff Report in the agenda of December 9, 2014, staff reported being denied loans by three different local banks, “undoubtedly a result of the 2012 and 2013 audit findings which questioned whether the City was a ‘going financial concern’ plus the General Fund deficiencies discovered by staff this year.”

The negative cash balance would have grown to \$710,000 by June 30, 2015, without a rate increase. The City has implemented a 30 percent wastewater rate increase. Even with this rate increase, it will take three and one half years to eliminate the negative cash balance.

The wastewater rate increase should return the cash balance of the wastewater fund to the positive by December 31, 2020. At that time there will still be no reserve funds to pay for the estimated \$4.7 million in existing wastewater infrastructure deficiencies, let alone the additional \$6.2 million in long term capital improvements that were identified in the Wastewater Master Plan, presented to City Council on October 28, 2014.

Long-Term Debt/Loans

The Independent Auditor’s Report Financial Statement for the fiscal year ended June 30, 2013, specifically in Note 6: Long Term Liabilities, indicates the City has several debt service payments due

⁷ Feb 17, 2011 Santa Barbara County Association of Governments staff report, <http://meetings.sbcag.org/Meetings/SBCAG/2011/02%20Feb/Item%206A%20Guadalupe%20MOE.pdf>

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on Certificates of Participation (COP) issued by the City as far back as 2000 with payments continuing, in one case, to 2042. In December 2000, a COP of \$1.4 million was issued for water and sewer line replacement. Principal and interest payments average approximately \$77,500 each year to 2038 and then a lesser amount until 2042. A second COP was issued in July 2005 for \$1.2 million for water tank construction and upgrades. Principal and interest payments on this COP average approximately \$71,500 each year to 2033.

Other significant long-term debt includes repayment of two loans from the RDA, which was dissolved and replaced by the Successor Agency Trust Fund, for an August 2006 loan of \$1 million to construct the wastewater treatment plant (WWTP) and a June 2002 loan for \$167,629 to eliminate the deficit of the solid waste fund. Payments on these two loans will increase from \$30,000 in 2014 to \$170,000 in 2015 and continue at this level to 2018.

Also, Supplemental Educational Revenue Augmentation Fund (SERAF) loans provided funds on four occasions totaling \$438,988. These funds went to the Affordable Housing Fund to pay for the Lantern Hotel project. Funds are being repaid to the California Department of Finance.

The Table 2 below summarizes the loan type and annual payments on long-term debt already encumbered by the City of Guadalupe.

Table 2.
City of Guadalupe Long-Term Debt

Type of Loan / Year	Reason for Loan	Total Amount	Annual Payments	Last Loan Payment
COP/ 2000	Water & Sewer Line Replacement	\$1.4 M	~ \$77,500	2042
COP/ 2005	Water Tank Construction & Upgrades	\$1.2 M	~ \$71,500	2033
From RDA 2002 & 2006	Solid Waste Fund Deficit & WWTP construction	\$1.2 M	\$30,000 ~ \$170,000	2014 2015 to 2020
Sewer Bonds 1971 & 1978			~ \$16,500	2019
SERAF 2010-11	Affordable Housing	\$438,988	\$28,902 \$14,451	2014-2019 2038
Lighting District & Water Fund 2014	General Fund Deficit	\$575 K	Year 1 , \$14,375 escalating to \$100,625 in 2024	2024

Is There a Silver Lining for the City of Guadalupe?

Outside Consultant Advice

In June 2014, a consultant was hired to perform a “high level” assessment of the City’s finances. The financial consultant provided a road map to put the City’s finances on the straight and narrow. The City Council, upon recommendation of administrative staff, has moved to implement many changes.

The consultant noted interfund transfers for 2013-14 and 2014-15 were sharply reduced by the City to conform to Generally Accepted Accounting Principles. However, this created a General Fund budget deficit of \$557,000 for these two years. He recommended the City Council approve a loan from the enterprise funds to the General Fund to be repaid over a 10-year period to cover this deficit. The Council has followed this advice and approved loans from the water and lighting districts with a repayment schedule.

The Guadalupe City Council has formed an audit committee as recommended by the consultant. It has also implemented rate increases for solid waste and wastewater services. It intends to negotiate with the solid waste collection vendor to turn over billing and collections to the vendor. However, it should be kept in mind that there is no assurance the negotiations with the solid waste vendor will be successful. These changes are not being implemented to build up the City’s financial reserves, rather they will only cover current budgetary deficits that accumulated over many years of running the City of Guadalupe with insufficient revenue.

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Ballot Measures V, W, and X

In November 2014, the voters of the City passed three ballot measures (Measures V, W, and X) that, when fully implemented, are projected to add approximately \$300,000 in annual revenue to the City's General Fund. This only covers about one-half of the \$630,000 average annual deficit. The outside consultant estimated that funds from the three measures, along with the \$575,000 interfund loan and minimal increases in property and sales taxes, will result in a "structurally balanced" budget in FY 2015-16, when all three measures will be in full effect. This means revenues will equal expenditures. The consultant made no predictions on the possibility of a "structurally balanced" budget beyond FY 2015-16.

The increased revenue from the three tax measures allows the city to limp along with day-to-day operations. It is not enough to provide funding for essential changes to city operations such as building up a reserve fund for emergencies, repairing or maintaining aging infrastructure, needed capital improvements, restoring salary or benefits to employees who have agreed to furloughs and salary cuts, or adding staff.

DJ Farms Development Project

In 1993, a plan was proposed to build 980 homes on the southeast corner of the intersection of Highway 1 and 166 in Guadalupe. In 2006, a revised 800 unit housing development commonly referred to as DJ Farms (now renamed Pasadera) was proposed. The Jury was told by the project developer that ground breaking on the first 150 units would occur in January 2015. Ground was actually broken in March 2015. Plans are for 20 units to be ready for sale by September 2015. The developer anticipates these will be sold within six months. The remaining homes are expected to be brought to market at the rate of six homes per month. Full build out of the DJ Farms project has been estimated to take 10 to 15 years.

The developer assumes an average selling price of \$300,000. If the 150 homes are built as anticipated by the developer by July 2017, this would yield a property tax to the General Fund of \$75,929. Refer to Table 3 below for details. The average yearly General Fund deficit is \$630,000 of which the recently approved Measures (V, W, & X) will cover only \$300,000. The DJ Farms property tax revenue will only partially offset General Fund deficit of \$330,000 leaving a deficit of \$254,071.

Even assuming the above very favorable scenario, the General Fund deficits will continue until at least 2024. During that period the deficits will likely require additional interfund loans which will increase the General Fund yearly loan payments, adding to the deficit.

The front 18 acres of the project are reserved for commercial development and there has been interest from supermarket chains and fast food companies. This could increase sales tax revenue. The developer speculates this will not happen until the first 150 to 200 homes are built. However, major national and regional retailers look for a certain customer base before moving into an area. This is estimated at a minimum population of 10,000 within the immediate geographic area. The additional population DJ Farms would bring, at full build out in 2026 or later, would barely satisfy this requirement.

The City of Guadalupe's reliance on the vagaries of the residential and/or commercial real estate market to eliminate ongoing General Fund deficits is ill advised. Hope is not a strategy.

The Jury must conclude that a Silver Lining is an illusion.

Table 3.
Guadalupe DJ Farms Property Tax Impacts to General Fund

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Homes/ Year	Homes Total	Gen Fund Prop Tax Revenue Total/yr*	Gen Fund Deficit*4,5,6
2015			Start						20	6	6	6	38	38	\$ 19,235	(\$310,765)
2016	6	6	6	6	6	6	6	6	6	6	6	6	72	110	\$ 55,682	(\$274,318)
2017	6	6	6	6	6	6	4						40	150	\$ 75,929	(\$254,071)
2017							2	6	6	6	6	6	32	182	\$ 92,128	(\$237,872)
2018	6	6	6	6	6	6	6	6	6	6	6	6	72	254	\$ 128,574	(\$201,426)
2019	6	6	6	6	6	6	6	6	6	6	6	6	72	326	\$ 165,020	(\$164,980)
2020	6	6	6	6	6	6	6	6	6	6	6	6	72	398	\$ 201,466	(\$128,534)
2021	6	6	6	6	6	6	6	6	6	6	6	6	72	470	\$ 237,912	(\$92,088)
2022	6	6	6	6	6	6	6	6	6	6	6	6	72	542	\$ 274,358	(\$55,642)
2023	6	6	6	6	6	6	6	6	6	6	6	6	72	614	\$ 310,804	(\$19,196)
2024	6	6	6	6	6	6	6	6	6	6	6	6	72	686	\$ 347,251	\$17,251
2025	6	6	6	6	6	6	6	6	6	6	6	6	72	758	\$ 383,697	\$53,697
2026	6	6	6	6	6	6	6	2					44	802	\$ 405,969	\$75,969

* - Calculations assume a \$300K home, 1% assessment, 16.9% allocation factor to General Fund, for a \$506/home revenue
*1 - Developer projects the first 20 homes will be built in six months after ground breaking; started in March 2015.
*2 - After first 20 the remaining 150 homes in Phase 1 will be built at a rate of six per month depending on buyer participation.
*3 - Remainder of 802 homes (652) to be built at six per month rate depending on buyer participation.
*4 - Average yearly General Fund deficit the past 12 Years was approximately \$630K with \$300K covered by Measures W,X,&Y leaving a yearly deficit of \$330K.
*5 - New home property tax will not cover the \$330K deficit until 2024 assuming the full built-out occurs at the 6 per month rate.
*6 - Calculations don't account for salary furlough restoration and increases, fund reserve built-up, future emergency loan payments, home built-out delays, etc.

Special District Option

The inappropriate transfers from restricted enterprise and special funds discussed in this report were driven by the need to pay for General Fund operations. Official City audits have repeatedly questioned the City’s viability “as a going concern.” Voter approval of three November 2014 tax measures provided only a minimal amount of additional General Fund revenue, barely enough to balance the 2015-16 General Fund budget.⁸ Guadalupe has recently recognized that General Fund usage of restricted funds must be handled as loans, must be repaid,⁹ and become additional future General Fund expenses.

Prior to approval of the three tax measures, serious discussions regarding the disincorporation of the City ensued¹⁰ pursuant to *California Government Code Sections 57400-57425* which provide for the transfer of the city’s assets and liabilities to the county as the successor agency, including the ability to assume control of, and administer, all systems of waterworks, street lighting, or any other public utility owned by the city at the time of its disincorporation. Regarding city indebtedness, *California Government Code Section 57409* requires that the county “cause to be levied, and there shall be collected from the territory

⁸ Financial Assessment Memorandum, William C. Statler, August 18, 2014
⁹ Guadalupe City Council Action, November 25 2014, Resolution No. 2014-68
¹⁰ Santa Maria Times, August 25 2014

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formerly included within the city, taxes sufficient to pay the indebtedness as it becomes due.” Any taxes levied pursuant to *Section 57409* are additional taxes upon the property included within the territory of the disincorporated city. Additionally, “No tax shall be levied upon any territory not included within the former limits of the disincorporated city for any debt or liability of the disincorporated city.”¹¹ Thus, the General Fund indebtedness will be frozen at the time of disincorporation.

An alternative could be a reorganization of the City to a Community Services District or several special districts. Special districts are a form of local government created by a local community to meet a specific need. Inadequate tax bases and competing demands for existing taxes make it difficult for cities and counties to provide all the services desired by their citizens. When residents or landowners want new services or higher levels of existing services, they can form a district to pay for and administer them.¹² Multi-function districts, like community services districts, provide two or more services.¹³ Just over a quarter of California’s independent special districts are enterprise districts. Enterprise districts operate more like a business, charging customers for their services. Non-enterprise districts provide services that don’t lend themselves to fees because they benefit the entire community, provide services such as parks and fire protection, and rely overwhelmingly on property taxes to fund their operating budgets.

Reorganization can be accomplished by a City resolution and petition to the Santa Barbara County Local Agency Formation Commission (LAFCO). Established under *California Government Code Section 56000*¹⁴, LAFCO has the powers and duties to approve or disapprove proposals for changes of organization or reorganization of a city,¹⁵ and “the authority to condition approval or disapproval of a reorganization with or without election.”¹⁶

California Government Code Section 56001, in part, notes “...that community service priorities be established by weighing the total community service needs against the total financial resources available for securing community services; and that those community service priorities are required to reflect local circumstances, conditions, and limited financial resources” and “...responsibility should be given to the agency or agencies that can best provide government services.”

CONCLUSIONS

The 2014-15 Santa Barbara County Grand Jury finds that Guadalupe simply does not generate enough General Fund revenue from the sources most cities rely on (property, sales and bed taxes) to provide basic services to its citizens. Guadalupe remains a city run by the same well-intentioned, but ultimately untrained and uninquisitive elected officials, who in past years have relied on unqualified and undertrained staff. For over 12 years the City has floated budget deficits by way of inappropriate interfund transfers from special and enterprise funds to the General Fund. The Jury recognizes the many financial changes made by the City of Guadalupe over the past year. However, budget deficits continue

¹¹ *California Government Code Section 57419*

¹² <http://www.csda.net/special-districts/> last visited March 16, 2015

¹³ *ibid*

¹⁴ *California Government Code Section 56000*, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

¹⁵ *California Government Code Section 56375.3 (a)*

¹⁶ *California Government Code Section 56885.5.(a)(3)*

to this day, leading to a series of financial problems from which there is no recovery.

The FY 2015-16 budget includes an initially modest \$14,375 payment to cover the first year debt service for the \$575,000 FY 2014-15 stop gap loan. However, these repayments increase annually over the ten-year loan period with a final payment in 2024 of \$100,625. Other significant long-term debt includes repayment of two loans from the Redevelopment Agency for an August 2006 loan of \$1 million to construct the wastewater treatment plant (WWTP) and a June 2002 loan for \$167,629 to eliminate the deficit of the solid waste fund. Payments on these two loans will increase from \$30,000 in 2014 to \$170,000 in 2015 and continue at this level to 2020.

The November 4, 2014 voter approval of Measures V, W, and X will help the City achieve a “structurally balanced” General Fund budget in FY 2015-16,¹⁷ but will not provide a long-term solution. Once fully implemented these Measures will annually provide approximately \$300,000 in new revenue. This is less than half of what is needed each year to cover the City’s General Fund revenue deficits going forward. These deficits have averaged approximately \$630,000 per year over the last 12 years. These voter approved Measures offer no funding to recompense City employees who took pay cuts or accepted furloughs to help keep the City operating over the past several years, let alone provide for future pay raises. Also, these Measures will not provide funding for capital improvements, adequate reserves, or handling aging infrastructure emergencies that may occur, such as the past broken water and sewer lines.

City Council members interviewed consistently mentioned the DJ Farms housing development as something that might save the City. Unfortunately, this project will not be completed until 2026, at the earliest, and projected property tax revenue will still be insufficient to cover the General Fund’s day-to-day operations.

After public disclosure of years of mismanagement of Guadalupe City funds, the Jury notes that many of those who were in positions of responsibility during those years have been repeatedly reelected or rehired.

This is the fourth Grand Jury report since 2002 on Guadalupe’s financial dysfunction, and this Jury believes it is time to say “enough.” There is no bridge to solvency in the estimation of the Jury. The Jury concludes that the City Council of Guadalupe should take the necessary steps to disincorporate.

Santa Barbara County Grand Jury reports are fact-based investigative observations that offer recommendations to improve governmental operations. This report is no exception, but it is the first time the Jury has recommended that a city disincorporate. The Jury understands an initial reaction would be for the Guadalupe City Council to reject this action feeling that Guadalupe would lose its identity. This would not be the case nor would the community of Guadalupe vanish. All one would have to do is look at other unincorporated communities throughout the State.

The Jury challenges the Guadalupe City Council to realistically consider the disincorporation recommendation when responding to this report.

FINDINGS AND RECOMMENDATIONS

¹⁷ Financial Assessment Memorandum, William C. Statler, August 28, 2014

GUADALUPE SHELL GAME MUST END

Finding 1

Guadalupe does not generate enough General Fund revenue (sales tax, property tax, and bed tax) to pay for General Fund expenses, such as police and fire operations.

Finding 2

Guadalupe's current debt payment obligations will increase annually until 2024 (see Table 2) with insufficient corresponding increases in revenue.

Finding 3

The recent passage of Measures V, W, and X will not provide a long-term solution to Guadalupe's financial issues.

Finding 4

There is no revenue to restore salary or benefits to employees who have agreed to furloughs and salary cuts, or to add staff.

Finding 5

There is no revenue to build up a reserve fund for emergencies or pay for needed infrastructure repair.

Finding 6

There is no revenue to eliminate the need for the City of Guadalupe to borrow an additional \$330,000 per year to meet General Fund obligations.

Finding 7

Guadalupe is losing \$4,000 per month in the Solid Waste Fund, due to faulty accounting practices, resulting in a \$240,100 fund deficit as of August 18, 2014.

Finding 8

Guadalupe has, for over 12 years, charged up to 193 percent of overhead expenses through inappropriate interfund transfers from its special funds and enterprise funds to the General Fund.

Finding 9

Guadalupe's inappropriate transfers included money taken from the State Gas Tax Fund, which was used for purposes expressly forbidden in the Gas Tax regulations.

Finding 10

Guadalupe did not, until recently, follow rules that allow loans of funds from special funds to help finance General Fund activities which must be approved by the City Council, be documented, and include a repayment schedule.

Finding 11

Guadalupe has a large tax liability to the IRS, which started in 2006 as a relatively minor dollar figure, but over the past eight years, with penalties and interest, has grown to over \$486,000.

Finding 12

Guadalupe’s decades long hope and expectation that future housing and commercial development will improve its financial situation have not been realized.

Finding 13

Disincorporation will freeze the existing debt of the City of Guadalupe at the current level.

Recommendation

That the City of Guadalupe disincorporate.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code Section 933 and 933.05*, the Jury requests each entity or individual named below to respond to the enumerated findings and recommendations within the specified statutory time limit:

City Council of Guadalupe – 90 days

Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13
Recommendation

GUADALUPE SHELL GAME MUST END

APPENDIX A Guadalupe Council and Staff Timeline

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	
Mayor	Sam Arca			Lupe Alvarez								Frances Romero		John Lizalde	
Councilmember	Carlos Aguilera					John Lizalde								Virginia Ponce	
Councilmember		Virginia Ponce										Gina Rubalacaba			
Councilmember	L. Alvarez			Myrtle Parra		Ariston Julian					Jerry Tucker		Ariston Julian		
Councilmember	Joe Talaugon			John Sebedra								Jerry Beatty			
City Administrator		Carolyn Galloway-Cooper							Regan Candelario		Tim Ness	Andrew Carter			
Finance Director	Carolyn Galloway-Cooper	Kendra Wright			Cynthia White				Carolyn Galloway-Cooper		Annette Munoz				

APPENDIX B Transfers from Special Funds to General Fund

Transfers from Special Funds to General Fund – Revised

Transfer	Actual 1999/00	Actual 2000/01	Actual 2001/02	Actual 2002/03	Actual 2003/04	Actual 2004/05	Actual 2005/06	Actual 2006/07	Actual 2007/08	Actual 2008/09	Actual 2009/10	Actual 2010/11	Actual 2011/12	Actual 2012/13	Original Budget 2013/14	Revised Budget 2013/14
Water	145,481	99,038	109,460	125,652	110,000	62,002	99,502	200,000	350,000	275,000	200,000	306,000	250,000	300,000	425,000	200,000
Wastewater	118,500	105,403	115,988	125,652	125,000	59,472	59,472	140,000	300,000	200,000	225,000	200,000	250,000	125,000	175,000	150,000
Gas Tax	21,058	26,633	28,640	31,883	49,000	57,720	57,720	150,000	100,000	60,000	60,000	55,000	45,000	60,000	70,000	50,000
Measure A/D	15,110	48,437	55,750	53,206	55,000	67,980	67,980	150,000	100,000	60,000	60,000	120,000	134,000	134,000	70,000	50,000
LTF	43,409	54,071	10,523	0	0	12,902	12,902	15,000	15,000	60,000	125,000	6,252	40,000	25,000	50,000	25,000
Transit	0	0	0	9,952	10,000	16,596	16,596	15,000	25,000	24,400	25,000	25,000	25,000	25,000	35,000	35,000
RDA	278,858	375,586	386,698	397,810	400,000	456,340	456,340	450,000	460,000	450,000	450,000	450,000	250,000	185,000	200,000	60,000
RDA, Bond Refinance	0	0	0	0	0	0	0	0	0	228,000	228,000	60,000	25,000	0	0	0
RDA, Afford. Housing	9,295	18,972	52,233	63,050	64,000	151,082	62,775	75,000	75,000	150,000	200,000	200,000	125,000	0	0	0
Drug Task Force	0	1,406	22,766	22,766	13,280	22,148	22,148	42,555	18,000	49,000	96,944	63,203	90,000	69,586	60,000	60,000
CDBG	0	0	11,790	2,500	2,500	0	25,532	0	52,940	5,000	0	994	8,561	0	15,000	15,000
Other Funds	9,765	30,739	9,791	15,000	10,000	37,310	37,309	286	16,000	0	0	47,474	0	0	0	15,000
Total Transfers	641,476	760,285	803,639	847,471	838,780	943,552	918,276	1,237,841	1,511,940	1,561,400	1,669,944	1,533,923	1,242,561	923,586	1,100,000	660,000

General Gov't Expenses	Actual 1999/00	Actual 2000/01	Actual 2001/02	Actual 2002/03	Actual 2003/04	Actual 2004/05	Actual 2005/06	Actual 2006/07	Actual 2007/08	Actual 2008/09	Actual 2009/10	Actual 2010/11	Actual 2011/12	Actual 2012/13	Original Budget 2013/14	Revised Budget 2013/14
City Council	19,896	NA	24,570	27,717	22,667	16,517	16,876	11,258	11,780	8,522	5,875	8,904	10,002	9,147	10,000	10,000
Administration	359,912	NA	311,970	376,127	331,354	364,898	359,433	379,360	519,496	454,956	419,735	408,662	465,676	541,122	475,325	475,325
City Attorney	52,148	NA	44,696	57,127	91,120	65,701	55,857	56,467	52,084	75,726	78,709	65,562	65,573	60,980	74,000	74,000
Finance	206,644	NA	345,285	264,096	164,149	275,844	278,465	292,593	357,355	304,225	367,349	310,243	309,406	319,366	355,075	355,075
Total Gen. Gov't	638,600	NA	726,521	725,067	609,290	722,960	710,631	739,678	940,715	843,429	871,668	793,371	850,657	930,615	914,400	914,400

Ratio	1.00	NA	1.11	1.17	1.38	1.31	1.29	1.67	1.61	1.85	1.92	1.93	1.46	0.99	1.20	0.72
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* The total of all transfers should always be less than the total expenses of the "overhead" departments. That's because those departments also work on General Fund activity.



**City of Santa Barbara Zoning Information Reports
Inconsistent and Unreliable**

CITY OF SANTA BARBARA ZONING INFORMATION REPORTS Inconsistent and Unreliable

SUMMARY

The 2014-15 Santa Barbara County Grand Jury (Jury) received a number of requests to investigate the accuracy and reliability of the Zoning Information Report (ZIR) and the impacts it has on both sellers and buyers of residences in the City of Santa Barbara (City). Of the 482 California municipalities, approximately 20 require this type of report. Carpinteria is the only other city in Santa Barbara County that requires this type of report.

According to the City, ZIRs provide important information to both the sellers and buyers of residential property by identifying:

- zoning and permitted uses of the property
- past City permits and approvals
- any potential violations of City ordinances
- existing improvements on the site as documented in City files and archive plans

The key phrase here is “as documented in City files and archive plans.” If the City has no record of a permit or approval of existing improvements, the burden of proof falls on the current property owner.

The Community Development Department (CDD), which issues ZIRs, identifies only the following as major violations:

1. illegal dwelling units
2. illegal conversion to habitable space
3. loss of parking space
4. improvements within 50 feet of the coastal bluff
5. violations that pose an immediate fire or life safety risk

When major violations are identified, the report is given an enforcement case number and the seller is given a number to call in the Building and Safety Division. An assigned enforcement officer will work with the seller to remedy the violation(s).

No matter when they occurred, minor violations (Appendix A), can have serious financial consequences for the seller, even if the seller did not commit or know of the alleged violation. While minor violations are not referred to enforcement, the subsequent buyer is required to correct these, before or simultaneously, when applying for a building permit for *any* future improvements.

The seller is required, no later than five (5) days of entering into an “agreement of sale,” to apply for a ZIR. As a result, the ZIR often comes near the end of escrow. Unexpected violations can

CITY OF SANTA BARBARA ZONING INFORMATION REPORTS

throw the entire transaction into jeopardy, and may give the buyer a basis for renegotiating the price.

BACKGROUND

The historical intent of the Zoning Information Report, when it was adopted in 1974, was to stop the proliferation of illegal and unpermitted rental units in garages and rooms being split in the larger Victorian homes in the downtown area. At that time, the City had a lack of housing units and the easiest way to add more in the minds of many (sellers, buyers and developers) was to increase the room count within the footprint of existing homes, garages, and outbuildings. The result was overcrowding, lack of adequate parking, and rundown houses which depressed the value of adjacent properties. Therefore, the two initial targets for inspectors were garage conversions and interior room splits. In the beginning, ZIRs were optional. Later they became mandatory.

Within a few years, the expansion of illegal dwelling units had been put in check, and neighbors became the most efficient instrument for reporting illegal conversions. Currently, vigilant neighbors perform a good service for the community when they report illegal units and parking problems within their neighborhood.

At their inception, ZIRs covered only illegal units and parking. They did not include minor violations. This practice resulted in some property owners believing that since a prior ZIR showed no violations and they had made no modifications, the current report would continue to show no violations. Today's ZIRs have morphed into a combination of the City zoning laws, permits and building codes. Today's inspections identify and document major and minor violations as preserving the "health and safety" of the community. However, CDD staff could not produce a definition of what constituted "health and safety."

With the improved technology that became available when the CDD moved to its current Garden Street location in the late 1980s, the amount of permitting information increased due to better resources and centralization of files and archives. Records of permits for improvements, such as decks, fountains and sunrooms were more easily available. However, City personnel admitted that over several years, files pertaining to property records have been misplaced, destroyed, taken and not returned, or simply lost (especially County-issued building permits lost during the 1970s, issued prior to the creation of the CDD).

If permits are not in the file, CDD staff presumes the improvements were not permitted. Many witnesses told the Jury that the City's files are disorganized and papers are misfiled. Staff states this can happen but alleges only rarely. One broker told us he had found documentation from another property in the file of his client. This is particularly disturbing as those misplaced documents are then missing from the proper files and if they cannot be located, the innocent homeowner would be cited with violations.

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A number of interviewees told the Jury the CDD takes an adversarial position to these alleged violations, which the homeowners resent, especially if the violation occurred decades and many owners ago. According to CDD staff, over the last four years (2010-2013) on average, 82 percent of ZIRs had some sort of violation. This seemed like an unrealistically high number to the Jury. However, when the Jury asked for all ZIRs for the month of July 2014, of the 52 reports received, 46 had violations, or 88 percent. It is hard to believe that over three-quarters of homes sold in the City of Santa Barbara have zoning and/or building violations that require correction and fees.

Many homeowners and real estate agents provided evidence that although one ZIR is deemed clear, the next ZIR on the same property may cite violations, especially when a different Planning Technician II (PT II) inspects the property. The CDD is unapologetic about this. Reporting to the Planning Commission regarding who should be responsible for these discrepancies, the CDD replied, “How do you define accountability in the here and now, when the staff is no longer there?” In other words: *If the inspector is no longer with the City, mistakes made by the City are now the responsibility of the current homeowner.* “If we have no information on the property, are we accountable?” In other words: *If we can’t find the proper paperwork, there was no paperwork, and the current owner must make this whole.* The CDD also emphasized that if something is overlooked, it does not mean it is approved.¹

The Real Estate Transfer Disclosure Statement (TDS-11) has been required for all residential home sales in the State since 1987 (*California Civil Code Section 1102*). Every known problem or defect is required to be disclosed by the seller on this form. Because of this, information on a ZIR has become redundant in many cases as far as health and safety issues are concerned.

Many buyers request home inspections, conducted by licensed professionals who are far more qualified than a PT II. The PT II job description states “equivalent combination of training, education and experience that would provide the required knowledge and abilities.” (See Appendix B.) The CDD staff noted there are no training manuals or consistency training for PT IIs in preparing ZIRs. The Jury was told training material is now being prepared.

METHODOLOGY

The Jury interviewed Community Development Department staff, real estate agents and brokers, homeowners, a private sector consultant, and other real estate industry-related professionals. The Jury spoke with and interviewed representatives from other municipalities. It reviewed ZIRs, minutes of an ad hoc Working Group researching ZIRs, and various drafts for proposed changes. The Jury also attended the Planning Commission meeting devoted to the recommendations of the Working Group as well as the subsequent City Council Meeting.²

¹ City of Santa Barbara Planning Commission Meeting November 13, 2014

² Santa Barbara City Council Meeting February 10, 2015

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OBSERVATIONS

Following a City Council meeting in December 2013 when the Santa Barbara Board of Realtors argued that ZIRs were being abused by the CDD, an ad hoc Working Group made up of three planning commissioners, two planning staff, three real estate brokers and two real estate staff, was formed to research the problem. The Working Group decided to focus on three main topics:

- Administrative Zoning Approvals
- Administrative Appeals
- Format Changes to the ZIR Form

None of the above topics addresses the crux of the problem: the CDD's reliance on incomplete files to investigate the permitting process, which creates serious discrepancies from one ZIR to the next. Staff told the Jury some discrepancies occurred because there was lack of follow-up of violations in the 1970s and 1980s, but today they are more vigorous about this. The CDD says that today's ZIRs show 5-10 percent discrepancies. A significant number of ZIR discrepancies (from the 1990s to 2005) occurred during the tenure of one City employee who subsequently left. Despite this fact, the City's clear position comes across as *if a permit is not in the file, then it never existed; or the seller must prove it does.*

The Jury heard from a number of homeowners, real estate brokers, agents, consultants and other professionals who experienced the following egregious Zoning Information Report discrepancies:

- A house built circa 1900 had a detached bedroom and bath on the property line. The City ordered it demolished. The homeowners were able to obtain aerial photos showing the original construction including the disputed rooms.
- One homeowner received a clean ZIR when she bought the property, but when she wanted to sell it, the new ZIR cited a number of violations that occurred before she bought her house; one being a fence that for many years sat two inches over the property line. When asked why she had to move the fence, a CDD manager told the Jury it was a "health and safety issue." When asked for clarification, the manager told the Jury they did not know what the fence was made of, so how could they tell it was safe? This cost the homeowner \$53,000 to resolve the problem.
- Another seller told the Jury the ZIR on his property indicated a deck had been built without permits, even though the "deck" was pavers on bare ground. The City added an amendment that said it would not enforce the violation, but they also would not remove it from the ZIR. The seller paid an attorney \$717 to get the matter cleared up.
- Another buyer purchased a house in 2014, and the ZIR was clear. When it recently went back on the market, the ZIR indicated a deck that had been there for 20 years was illegal, and the owner must obtain a permit to either remove it or rebuild the deck. It would not be permitted in its present state. Estimates for this came to \$75,000. As a result, the final price to the buyer was reduced by \$50,000. When dealing with the new buyer, the City changed its mind and allowed the deck to remain unaltered. The seller had no recourse as the property transfer had been completed.

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- A seller was informed by CDD staff, "...there is evidence that you have moved a door and window." The seller hired two contractors to confirm this had not happened. Staff did not offer any evidence that it had. The upshot was CDD essentially said "never mind." Still, the seller had to pay the contractors for revised plans and the City for revised permits.
- The City wanted a seller to remove a carport that had been in existence for 50 years and had been reported as legal on three prior ZIRs. It cost him \$20,000 to verify the carport had existed from the time the house was built.
- In a similar instance the homeowner was cited for a deck shown incorrectly on the plans. However, the changes the inspector observed were due to changes at the time of construction. It cost more than \$4,000 to get the violation removed, but this was less than the cost for the City's demand for demolition.
- A son, trying to sell his deceased mother's home, received a ZIR stating the garage had been moved from its original site because of the window and door placement, resulting in a violation. He was able to locate a 30-year-old photo of himself at the age of 6 taken in front of the garage, showing the original placement had not changed. When originally developed, this tract had the option of locating the garage in different configurations on a site. If the inspector had done proper research, this would have been known.

If the PT II determines there is a violation, documents supporting the violation should be provided. Currently, it is up to the seller to provide documentation that proves otherwise. The Jury learned the position of CDD is that "We believe we can't support grandfathering in all improvements because we don't know for sure if they cause fire or life safety risks."³

There is no formal appeal process, nor does CDD recommend one. Rarely are the ZIRs disputed since they often come so close to the end of the escrow period. The most serious problem with the dispute process is that it must go back to the original PT II who made the report, leaving objectivity in question. Homeowners are charged \$465 for the ZIR and an additional \$135/hour with a three-hour minimum, if disputed. A formal appeal process with an independent party has not been established which would guarantee homeowners due process.

Clearly, there are no checks and balances with this current process.

Common sense must prevail regarding violations that go back decades or owners ago. If CDD feels it imperative to correct the alleged violation, it should have a documented system for remedying the situation. In other words, the Jury concludes, "if you did not do the crime, you should not pay the fine." If the City has no compelling reason for correction of these violations, other than income generation, how does the community benefit? The CDD appears to be unfocused and caught up in unnecessary minutia.

³ Ibid

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The City of Carpinteria is an interesting contrast. It also requires an Inspection on Sale Report which costs \$245. Again, these began in the '80s because of illegal dwellings. Inspectors review the file prior to visiting the property and take relevant papers with them and then discuss with the seller what needs to be done to remedy a situation. Staff spends 30-45 minutes researching the office files. The inspector will spend approximately 30 minutes on the property, and at the end of an inspection, hand the homeowner a copy of the report. Total time for staff and inspector is 1.75 hours, and up to two hours for a complicated file. In contrast, the CDD of Santa Barbara states every attempt is made to complete the ZIR within 15 working days after an application is received. Additionally, the Jury was told Santa Barbara inspectors view the property first and then research the files. In the Jury's opinion, this is inefficient.

A Carpinteria inspector estimated major violations are about one percent. The discrepancy process is simple. When on site, the inspector tells the seller what needs to be done to remedy any violation. Remedies can be discussed with the inspector until both sides are satisfied. Where there are clerical errors, the City will clean them up.

The cost of a City of Santa Barbara ZIR is \$465, which is the highest in the state, however, the total cost can easily exceed \$1,000. If a homeowner disputes the findings and staff does additional research, the costs begin to escalate. If changes must be made, new permits must be acquired, even if the permit is for a demolition. This would be in addition to any requirement for new plans. While Staff says the department is "revenue neutral" these charges are in excess of other jurisdictions. Other municipalities charge much less for this type of report: the City of Los Angeles charges \$70.20, Pasadena \$150, Ventura \$35, and Carpinteria \$245. According to the CDD, ZIRs alone generate over \$240,000 annually.

ANALYSIS

The State mandates the seller provide the buyer with a Real Estate Transfer Disclosure Statement (TDS-11). In addition to this Statement, many potential home buyers have a professional home inspection performed. These licensed professional inspectors are better qualified to inform the buyer and document any deficiencies, such as whether there is ball-and-tube wiring, adequate links to the sewer system and water and power hookups, whether the roof needs repair/replacing, or if a property is unhealthy, illegal or unsafe. These inspections are very detailed and much more comprehensive than the Zoning Information Report.

However, the perception of many is that the intense diligence of the CDD is to ferret out past sins, which generates additional income for the City. More than one witness told the Jury, "...every time the inspector comes out there are more violations." Indeed the City expects the CDD to generate 100 percent of its budget for this program from the money it collects. PT II inspectors appear to have taken their responsibility to a whole new level. The regulations are applied inconsistently with new inspectors and even, on occasions, with the same inspector. As an example, the Jury obtained five ZIRs on a particular property spanning the period from 1997

CITY OF SANTA BARBARA ZONING INFORMATION REPORTS

to 2014. This property remained unchanged during these years (no new construction, additions or demolition performed) and was reported as follows:

ZIRs On One Property For Years 1997 to 2014				
<u>Year</u>	<u>Bedrooms</u>	<u>Full Bathrooms</u>	<u>Half Bathrooms</u>	<u>Violations**</u>
1997	5	4	2	Zoning & Building
2000	5	4	1	None
2002	4	4	2	Building
2011	3	3	2*	None
2014	4	4	2*	Building
* In 2011 two legal sinks noted; in 2014 same inspector noted those two sinks illegal				
** See Appendix C for violation details by year				

In another example, a property was listed on a ZIR as a triplex and the City collected taxes on it as a triplex. One ZIR indicated that since there were no permits on file prior to the 1950s, the City assumed the triplex was permitted. The next ZIR on the property noted that since there were no permits on file prior to the 1950s, permitting was not presumed and the triplex was therefore illegal.

A violation puts the property under a cloud which is reflected in the price of the home, as seen by the above examples. These decisions can cause hardship, both financially and emotionally, to the City's residents. Many are often under stress to sell because of health or relocation circumstances. A violation is consequential and letters from the City threaten fines. Banks' strict standards often require all violations be addressed immediately, prior to the close of a sale transaction. The results can be that the buyer backs out of escrow, or demands concessions. The concessions will probably be more than the cost to remedy, because the actual cost is unknown. The seller may decide to take the property off the market. To correct the violation, the owner pays fees, pays for plans, etc. It can cost thousands of dollars before approval is confirmed.

What disturbs the Jury most is the buyer of a property with a clean ZIR is not protected in the future. The next time the house is on the market, the current seller has no guarantee violations will not be cited, violations the homeowner did not commit, but will be required to abate.

The wording of the violation(s) in ZIRs is often ambiguous. A Planning Commissioner was troubled by such vague terms as "might encroach," "something appears to be," "there is evidence," and "appears," considering the weight the ZIR now has. This is particularly troubling when the City feels no obligation to confirm this, but insists that the homeowner must provide proof that the property, in its existing state, is not in violation. Interestingly, a City Attorney approves this vague language as "intentionally qualified language." The CDD is proposing that in the case of inconsistencies/discrepancies between ZIRs, it would only refer for enforcement the creation of an illegal dwelling unit and the physical loss of parking. What creates a "habitable space" appears to be discretionary. The CDD stated that areas used for living, eating, or sleeping

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are what makes a room “habitable.” However, for 25 years a storage room in the home that had been converted to an office, and used to conduct business as such during that time, was deemed an unpermitted “habitable space.” Currently, staff is proposing changing “habitable space” to “the creation of new floor area” or “new conditional space.” At the City Council meeting, this was defined as “having heating and air conditioning.” A member of the Council asked, “In your mind, is this precise?”

In another proposal, CDD is suggesting a new Administrative Zoning Approval Process to reduce or waive zoning standards when there are unclear city records, discrepancies in the record (including in the ZIRs), or it is evident that the improvement has been there for a very long time, i.e. 50 years. When there are unclear records and discrepancies in the records, and it is evident an improvement was on the site prior to 1974, those improvements could be eligible for this approval. The word “could” is problematic as it involves a judgment call which could be reversed when the house again comes on the market. The Jury has concerns about this. Violations today are often called out when one inspector disagrees with the findings of the previous inspector. This proposal appears to set up uncertainty for future sellers and buyers. With the CDD’s more vigorous follow-up policy, the Jury is concerned as to how violations, both major and minor, will be treated. Without reliability, ZIRs are a worthless document to both the buyer and the seller.

Absurd as it sounds, portions of garages used for storage are deemed to have created a “physical loss of parking,” and therefore a major violation. A ZIR will state, “...the workbench and cabinets encroach into the required parking area in the garage. By City Zoning Ordinance, two covered parking spaces are required and must be maintained at all times.” This means a 20 by 20 foot covered unobstructed parking space. If half the garage is used for a workshop or for storage, it must be cleared out. This is where common sense comes into play. The Jury understands the need for off-street parking, but the requirement for a 20 by 20 foot cleared space that is covered is overly restrictive and impossible to achieve in some of the older homes in the City. The City should require adequate off-street parking, but in the Santa Barbara climate, requiring covered parking seems excessive and the regulations need to be revised.

CONCLUSION

After a vigorous investigation, the 2014-15 Santa Barbara County Grand Jury concludes that while Zoning Information Reports had an important role to play in preserving neighborhoods from overcrowding, time has caught up with them and they no longer hold the relevance they once had. When it became possible to access previous history, the ZIR process changed and staff began to play catch-up with often disastrous unintended consequences. With the introduction of the Real Estate Transfer Disclosure Statement and often subsequent home inspections, health and safety issues were more reliably described and identified by professionals in their fields. The parking rules originally designed to preserve neighborhoods against overcrowding have become arbitrary, and to many, absurd.

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The City of Santa Barbara needs to stand by the Zoning Information Reports produced by the Planning Division of the Community Development Department. The *past-mistakes-must-be-corrected* attitude is unprofessional and unfair to the innocent people simply trying to sell their homes. The onus should be on the City to prove that a violation exists, and not on the seller to prove that one does not exist.

Once the City affixes its official seal to the document, it should stand behind its staff and the information it provides.

FINDINGS AND RECOMMENDATIONS

Finding 1

While the City of Santa Barbara Zoning Information Report, instituted in 1974, has served an important purpose, the State now requires many of these safeguards through the Real Estate Transfer Disclosure Statement.

Recommendation 1

That the City of Santa Barbara declare Zoning Information Reports voluntary, and used for informational purposes only.

Finding 2

The practice of the City of Santa Barbara Community Development Department is that if information cannot be located by the Planning Technician II inspector, it is assumed it never existed and that owners must produce proof of its existence, or face violations.

Recommendation 2

That the City of Santa Barbara Community Development Department institute a policy that if staff cannot prove that the property was altered during the current ownership, the City presumes the alteration previously existed.

Finding 3

Homeowners, after having spent many hundreds, often thousands of dollars to establish that an improvement was permitted, and that the City was incorrect, still bear the cost of the investigation.

Recommendation 3

That if the alleged violations prove to be incorrect, the City of Santa Barbara reimburse the homeowner for all costs incurred in the subsequent investigation.

Finding 4

A City of Santa Barbara Zoning Information Report with no violations does not guarantee a future report will not show alleged unreported violations by previous owners.

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Recommendation 4

That the City of Santa Barbara provide certainty to the buyer by certifying each Zoning Information Report as accurate.

Finding 5

If a violation reported on a City of Santa Barbara Zoning Information Report is found to be incorrect, the report is amended but the alleged violation is not necessarily removed by the Community Development Department.

Recommendation 5

If a Zoning Information Report violation is found to be incorrect, that violation be removed entirely from the report.

Finding 6

There is no formal appeal process. An “intent to dispute” is not an adequate appeals process.

Recommendation 6a

That the City of Santa Barbara establish an appeals process that requires an outside mediator.

Recommendation 6b

That the Zoning Information Report include a prominently stated and documented appeal process.

Finding 7

The City Zoning Information Report Planning Technician II inspectors do not typically research the property records prior to the site visit.

Recommendation 7

The Planning Technician II inspector review all relevant files prior to a site visit.

Finding 8

The basic cost of a City of Santa Barbara Zoning Information Report is \$465.00, the highest in the State. Other municipalities charge considerably less.

Recommendation 8

The price for a Zoning Information Report should be consistent with other municipalities.

Finding 9

The requirement that a single-family residence maintain a covered, unobstructed, 20 foot by 20 foot parking space is overly restrictive.

Recommendation 9

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That the City rewrite this parking ordinance requirement in a more flexible manner while keeping on-street parking under control.

Finding 10

There is no training manual for staff to conduct consistent Zoning Information Report inspections and reports.

Recommendation 10

That the City of Santa Barbara write a detailed training manual defining the research policies, inspections, and procedures.

REQUEST FOR RESPONSE

In accordance with *California Penal Code Section 933.05* each agency and government body affected by or named in this report is requested to respond in writing to the findings and recommendations in a timely manner. The following are the affected agencies for this report, with the mandated response period for each.

City of Santa Barbara City Council – 90 Days

Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10

Recommendations 1, 2, 3, 4, 5, 6a, 6b, 7, 8, 9, and 10

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Appendix A

Minor Violations Listed on ZIR's issued during July 2014

Zoning Violations

- The workbench and cabinets encroach into the required parking area of the garage. By City Zoning Ordinance, two covered parking spaces are required and must be maintained at all times
- Trash cans and a wood pile are being stored [*sic*] in the required interior setbacks
- The trash enclosure encroaches [*sic*] into the front yard setback
- The viewing deck encroaches into the required interior setback
- The detached storage shed and playhouse encroach into the required interior setbacks
- The front fence exceeds the maximum allowable height of three and one half feet within 10 feet of a front lot line and within 10 feet of either side of a driveway for a distance of 20 feet back from the front lot line. The front hedge exceeds the required height of three and one-half feet (3-1/2') when located within a triangular area on either side of a driveway measured as follows: A. When a driveway directly abuts a portion of a street improved with a sidewalk and a parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line
- The storage shed encroaches into the required interior setback
- The play structure encroaches into the required interior setback
- The 1996 permit for [*sic*] the rear viewing desk in the rear yard expired in 1996. The deck requires a new building permit and design review approval
- The air conditioning unit was added on the roof of the garage without the required design review approval
- The detached metal storage shed encroaches into the required interior yard setback
- The attached small storage room was added without the required permit. (Any attached structure required a building permit)
- The detached shed and the trash enclosure are located in the remaining front yard and possibility in the required interior setback
- The wood storage shed encroaches into the required interior setback
- The patio cover and the outdoor fireplace encroach into the required interior setbacks
- Debris, construction materials, and trash cans are being stored in front and interior setbacks
- The storage shed in the rear of Unit A encroaches into the setback
- Miscellaneous items are being stored in setbacks in Unit B
- Miscellaneous construction items are being stored behind garage and encroach into rear setback
- The trellis in the rear of the property was built within the 40' bluff setback, which in [*sic*] a violation of the Conditions of Approval of Planning Commission Resolution 057-90. Advisory Comment: In order to legalize trellis, the condition would have to be amended at Planning Commission with a revised geologist report

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Building Violations

- There is [sic] no permits on record for the barbeque, sink and electrical appliances [sic] for the outdoor cooking area
- A door has been added to the carport without the required permit (within the front interior setbacks)
- Remodel was done to create a fourth bedroom without a building permit
- There is no permit on record for the attached patio cover at the rear of the house
- The stairs on the side of the garage were constructed without the required permit
- The trellis in the rear of the property was built without the required permit
- The trash enclosure was built without permits
- The built-in barbeque was constructed without permits
- There are no permits on file for the construction of the rear detached patio cover
- The playhouse with rabbit hutch underneath was constructed without building permit
- There are no permit on [sic] for the washer/dryer hookups in the garage
- The kitchen has been remodeled and enlarged to include part of the family room as shown on the 1961 floor plan. A center island with a new sink was installed and the washer/dryer hookups were moved from the kitchen area to the garage. A laundry sink was also added to the garage. All work was done without the required permits
- There is no permit on record for the air conditioning unit on the side of the dwelling
- The side patio cover was added without the required permit
- The kitchen was remodeled under a permit issued in 2009 (BLD2008-XXXXX). This permit was issued but never finalized [sic]. It appears that a kitchen island was added (with an additional sink) however this change was not documented in a revised project description
- The attached small storage room was added without the required permit. (Any attached structure required a building permit)
- There is no permit on record for the rear attached patio cover
- The air conditioning unit was added on the roof of the garage without the required permit
- The two vehicle carport was added without the required permit and design review approval. Also, the original plans for the duplex show a carport where the existing garage attached to Unit XXXX is located. The enclosure of the carport required a building permit and design review approval
- The trellis covers and deck were added without the required permits
- The shower was added in the upstairs ½ bathroom without the required permit
- A building permit is required for the side attached patio trellis
- There is no record of a permit for the bar sink in the guest bedroom. Further, Zoning allows only a five foot long counter
- The building permit for the deck (BLD2000-XXXXX) was issued in 2000 but expired in 2002
- The sink and electrical outlet were added to the outdoor counter without the required permit

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- The viewing deck was added without the required building permit
- The patio cover was added without the required permit
- There is no permit on record for the alcove at the rear of the dwelling. This area is not habitable space.
- The wall between two of the bedrooms was removed to create one master bedroom. This work was done without the required permit
- The basement has been converted to habitable space with bedroom and full bathroom without building permits
- A half bath was added to one of the bedrooms without building permits
- There are no permits on file for the washer and dryer in the storage area of the basement
- There are no permits on file for the conversion of the carport in a garage by the addition of a garage door
- The trash enclosure was built without permits
- The half bathroom in the garage was added without the required permit

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APPENDIX B

Planning Technician II Job Qualifications, ca 2005:

Knowledge of:

- Basic principles and concepts of urban planning.
- Basic computer functions.
- Basic report writing, research methods and data compilation.
- Basic principles and techniques of inspection.
- Modern office methods, practices, procedures and computer equipment.
- Databases such as Crystal, Access, Excel.
- Pertinent laws, codes, ordinances, and regulations related to planning activities.
- Principles and concepts of urban planning.
- Penal code arrest and seizure procedure.
- Methods and techniques of conflict resolution.
- Complex principles and techniques of inspection.

Ability to:

- Learn to understand and interpret laws underlying general plans, zoning, and applicable environmental laws and regulations.
- Learn to interpret planning and zoning programs to the general public.
- Learn to enforce proper zoning requirements.
- Learn to work with diverse cultural and socio-economic groups.
- Compile technical and statistical information and prepare basic reports.
- Read and interpret mapping and survey data, site plans, zoning codes, legal descriptions and related information.
- Establish and maintain databases such as Crystal, Access, Excel.
- Understand and carry out oral and written directions.
- Communicate clearly and concisely, both orally and in writing.
- Establish and maintain cooperative working relationships with those contacted in the course of work.
- Maintain physical condition appropriate to the performance of assigned duties and responsibilities which may include the following:
 - Sitting and standing for extended periods of time
 - Operating equipment
- Maintain effective audio-visual discrimination and perception needed for:
 - Making observations
 - Communicating with others
 - Reading and writing
 - Operating related equipment

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- Interpret and enforce applicable City, State, and Federal codes, ordinances, and regulation related to zoning, planning, and environmental laws.
- Enforce proper zoning requirements.
- Foster and use techniques of conflict resolution while working cooperatively with those contacted in the course of work.
- Effectively and competently present presentations to Planning Commission.

Experience and Training Guidelines

- Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

- A minimum of two years of planning or related experience is typically required.
- Training: Equivalent to the completion of the twelfth grade supplemented by college level course work in planning, geography, business administration or related field.

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Appendix C

Violations Called Out for One Property: 1997 – 2014 with No New Construction, Additions or Demolition Performed

1997 Violations

Zoning Violation: A portion of the carport encroaches into the required interior yard setback.

Building Violations:

1. The hot tub/spa and deck were constructed without the required permits.
2. The carport and attached trellis were constructed without the required permits.
3. Where there is a pool or body of water over 18 inches, gates opening through fence or wall enclosures shall be equipped with a self-closing and self-latching device.

2000 Violations – None noted

2002 Violations

Building Violation: Gates leading to pool area must be self-closing and self-latching.

2011 Violations

Building Violations Permits also cannot be located for the barbeque, sink and electrical applicances [*sic*] for the outdoor cooking area. (Note, this inspector indicated “none” for Zoning Ordinance or Building Code violations.)

2014 Violations:

Building Violations

1. There are no permits on record for the barbeque, sink and electrical applicances [*sic*] for the outdoor cooking area.
2. A door has been added to the carport without the required permit (within the front and interior setbacks).

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**Santa Barbara Sheriff-Coroner's Bureau
Still an Unhealthy Environment**

SANTA BARBARA SHERIFF-CORONER'S BUREAU

Still an Unhealthy Environment

SUMMARY

The 2012-13 Santa Barbara County Grand Jury's report on the operation of the Santa Barbara Sheriff-Coroner's Bureau (Bureau) found the Bureau in need of an upgrade. Subsequently, in response to the report, the Bureau concluded that it was not in compliance with the *California Code of Regulations (CCR); Title 8, Section 5199* Occupational Safety and Health Administration (Cal/OSHA) regulations to conduct autopsies.¹ The 2014-15 Santa Barbara County Grand Jury (Jury) has determined the operation of the Bureau is still noncompliant and deficient in six specific areas: policy, training, equipment, facility, testing and documentation.

BACKGROUND

California Government Code section 27491 requires the Sheriff-Coroner to determine the circumstances, manner and cause of death in a wide range of cases, including those where the deceased was not under the care of a physician. Deaths in which a physician is not able to state the cause of death may require an autopsy. *California Government Code Section 27491* grants the Bureau authority to determine the extent of investigation for all reported deaths. Santa Barbara Deputy Coroners are sworn peace officers under *California Penal Code Section 830.5*.

Since the Jury's 2012-13 report, the Santa Barbara County Board of Supervisors (BOS) and the Sheriff-Coroner have been aware of the Bureau's deficiencies as they relate to the control of Airborne Infectious Diseases (AirID), such as tuberculosis (TB), meningitis, and other communicable diseases. The BOS in its February 11, 2014 updated response to the 2012-13 Grand Jury report stated that, "Health and safety concerns identified through the facility condition assessment will be given high priority for funding."

The BOS commissioned Jorgensen Associates to prepare a facility condition assessment of all facilities within the County. The Jury understands the Facility Condition Assessment Report (Jorgensen's Report) fails to consider the \$130,000 recommended in the October 2013 study by Mechanical Engineering Consultants, Inc., directed by the BOS. The Jorgensen's Report recommended only \$13,200 of repairs to the Coroner's Facility. None of the projects identified by Jorgensen relate to the ventilation system.

¹ www.dir.ca.gov/title8/5199.html

SANTA BARBARA SHERIFF-CORONER'S BUREAU

The extensive structural and mechanical upgrades to the facility have not been approved or budgeted by the BOS. It has recently been suggested to the Jury that it is sometimes less expensive to replace facilities than to renovate them.

The Board of Supervisors established the Bureau as a part of the Sheriff's Office in 1947. The current facility was built with inmate labor in 1987 for less than \$100,000.² There is no evidence the facility was constructed in compliance with appropriate standard building codes. The physical facility is in immediate need of structural and mechanical improvement to become compliant with *CCR Title 8 (Industrial Relations), Division 1 (Department of Industrial Relations), Chapter 4 (Division of Industrial Safety), Subchapter 7 (General Industry Safety Orders), Group 16 (Control of Hazardous Substances)*. The overall layout, infrastructure and fixtures prevent effective infection control, causing potential cross contamination between the autopsy room and the rest of the building area. The wood and particle board cabinetry, refrigerators, and other equipment in the autopsy room cannot be properly sanitized. The ventilation system continues to be a major concern.

Mechanical Engineering Consultants, Inc. was contracted to perform a study of the ventilation system in response to a prior Jury's report³ regarding lingering noxious odors, lack of proper ventilation and improper air conditioning. The costs were estimated at \$130,000 to repair the ventilation system.⁴ However, the study also revealed the existing heating, ventilation and air conditioning (HVAC) system consists of one unit for the entire facility. When the HVAC is running, odors and airborne pathogens circulate throughout the entire building. The ceiling of the building is not compartmentalized and the HVAC does not properly separate air distribution or introduce fresh air to the treatment room and the administrative office. The distribution of contaminated air, fumes and odors poses a major health concern with the potential spread of communicable diseases, and exposure to formaldehyde.

METHODOLOGY

The Jury reviewed the duties and functions of the Bureau by interviewing staff, visiting the location, and reviewing various documents including policies, procedures, training syllabus, equipment, testing procedures, the physical structure of the facility, and the Mechanical Engineering Consultants, Inc. report.

² 2012-13 Grand Jury Report, "Sheriff-Coroner's Bureau" www.sbcgj.org

³ Ibid

⁴ Mechanical Engineering Consultants, Inc. Report, October 11, 2013 to BOS

SANTA BARBARA SHERIFF-CORONER'S BUREAU

OBSERVATIONS AND ANALYSIS

The work force at the Bureau is composed of a chief medical examiner contracted from Ventura County, a lieutenant supervisor, four Deputy Coroners, a sergeant, two retired part-time pathology assistants and one administrative support staff.

Approximately 150 autopsies are performed each year, 50 percent from north and 50 percent from south county. A "typical" autopsy takes approximately 1.5 hours to complete. There are two storage units on site with the total capacity of 16 bodies.

Policy⁵

It is the policy of the Santa Barbara County Sheriff-Coroner's Office to protect the health and safety of its employees by:

- Eliminating hazardous exposures where possible
- Minimizing hazardous exposures that cannot be eliminated
- Avoiding placing employees into an environment of potential workplace hazards
- Requiring the use of Respiratory Protection Equipment

The greatest deficiencies relate to the control of Airborne Infectious Disease (AirID) and protecting employees and visitors in the facility. The current structure is not adequate for performing high-risk autopsies on known or suspected AirID cases. These cases require negative air pressure rooms and the use of Powered Air Purifying Respirators (PAPR), which are not available to staff. Thus, these cases are currently referred to an out-of-county Coroner's Bureau.

Proper controls and protocols are established by *CCR Title 8, Sections 5144, 5193 and 5199* to ensure personnel working in any facility conducting autopsies are not exposed to infectious diseases when procedures are conducted on high risk cases of TB, other airborne infectious diseases, and blood-borne pathogens. Currently the Bureau does not have proper ventilation, nor does it routinely test its personnel for TB exposure or monitor for formaldehyde exposure. The Jury believes these deficiencies must be rectified immediately to protect staff and public visitors from being exposed to transmittable airborne pathogens.

In order to achieve *CCR Title 8; Sections 5144, 5193 and 5199* compliance, the facility requires extensive structural and mechanical upgrades.

In 1997, an investigation conducted by Cal/OSHA revealed that seven Los Angeles County Coroner's employees had been infected with TB, due to improper ventilation when the bone saw was utilized on bodies infected with TB.⁶ Airborne Transmittable

⁵ Santa Barbara County Sheriff's Office, Coroner's Unit and Coroner's Facilities, Illness and Illness Protection Program (IIPP), September 2, 2014, page 1

⁶ LA Times April 25, 1997 "TB Plagues Office of LA Coroner"

SANTA BARBARA SHERIFF-CORONER'S BUREAU

Pathogens (ATP) are transmitted via dust during bone saw procedures, such as cutting cranial cavities during autopsies.

Training

The Jury learned that the Bureau staff does not receive the specialized training necessary to formulate an appropriate infectious disease control policy in compliance with *CCR, Title 8*.

Equipment

The Bureau does not have the necessary equipment to complete its work safely. For example, it needs a Negative Air Pressure System and Powered Air Purifying Respirators to conduct autopsies on known or suspected AirID cases such as tuberculosis, measles, severe acute respiratory syndrome, avian influenza virus, and other diseases. The staff is also at risk without this equipment when processing decedents who have been intravenous drug users or homeless, as identified in *CCR, Title 8*.

Facilities

In order to create the negative air flow and remedy the repugnant smells in the autopsy room, the Coroner's staff has created a makeshift solution by using a fan and keeping a door open in the autopsy room during procedures. This involves closing and locking the door between the administrative area and the autopsy room and keeping the outside front door to the autopsy area open.

This makeshift practice does provide minimal ventilation, however several other issues arise including:

- Circumventing the air conditioning system increases the room temperature causing staff who are wearing protective gear to be potentially subjected to unhealthy conditions
- Allowing unfiltered air with contaminants to escape within the facility is a violation of Cal/OSHA regulations which require the door be closed during autopsies
- Allowing anyone from the public to walk in during an autopsy is a public safety concern

A code-compliant ventilation system is needed to ensure contaminated air exhausted from the autopsy room is not redistributed into other areas of the building. This is not possible with the present configuration.

Testing

Currently the Bureau does not have a testing protocol to ensure that personnel have not been exposed to infectious disease, including tuberculosis and hepatitis. It does not conduct air testing to detect the levels of formaldehyde in the area.

Documentation

There is a lack of facility-specific infectious disease control written policies and procedures. The Bureau has not created *CCR Title 8* compliant written policies and

SANTA BARBARA SHERIFF-CORONER'S BUREAU

procedures that include facility and equipment decontamination; nor has it established proper work procedures.

CONCLUSION

The 2014-15 Santa Barbara County Grand Jury believes the Sheriff-Coroner's Bureau facility should be replaced as soon as possible. As an alternative, an existing building could be acquired and remodeled to comply with *CCR Title 8, Section 5144, 5193 and 5199* regulations. The Santa Barbara County Board of Supervisors has not funded the estimated \$130,000 identified by Mechanical Engineering Consultants to merely improve the ventilation system at the Coroner's Bureau facility. The facility's existing mechanical systems were never designed to support current laboratory requirements. Major additional renovations are needed to the current facility to handle airborne infectious diseases.

Health, safety and security are serious concerns. Both operational and facility modifications are needed to comply with Cal/OSHA Standards.

The Santa Barbara County Board of Supervisors response dated February 11, 2014 to the 2012-13 Grand Jury report stated "Health and safety concerns identified through the facility condition assessment will be given high priority for funding." To date no funds have been allocated to upgrade the Coroner's Bureau facility.

FINDINGS AND RECOMMENDATIONS

Finding 1

The Sheriff-Coroner's Bureau facility does not comply with *California Code Regulations; Title 8, Sections 5144, 5193 and 5199*.

Recommendation 1a

That the Santa Barbara County Board of Supervisors fund the construction of a new coroner's facility under the "health and safety prioritization" directive of the Board of Supervisors Facility Condition Assessment Reports to become compliant with infectious disease control regulations .

Recommendation 1b

That the Santa Barbara County Board of Supervisors identify and fund an existing building that could be used to perform the functions of the Coroner's Bureau in a manner compliant with infectious disease control regulations.

Finding 2

The Sheriff-Coroner's Bureau facility does not have the mechanical and structural systems including negative air pressure which are necessary for the control of infectious

SANTA BARBARA SHERIFF-CORONER'S BUREAU

diseases, removal of noxious odors and dilution and expulsion of contaminants from the entire facility.

Recommendation 2

That the Santa Barbara County Board of Supervisors make funds available to upgrade the structural and mechanical systems of the existing coroner's facility to become compliant with infectious disease control regulations to protect the health and safety of County employees and the public.

Finding 3

The Sheriff-Coroner's Bureau safety policies and plans are insufficient to ensure compliance with the rules relating to infectious disease control pursuant to *California Code of Regulations Title 8, Sections 5144, 5193 and 5199*.

Recommendation 3

That the Sheriff-Coroner formulate and implement facility workplace hazard/infectious disease control policies that meet *California Code of Regulations Title 8, Sections 5144, 5193 and 5199*.

Finding 4

The Coroner's Bureau staff is not properly trained relating to infectious diseases control both as it relates to AirID and blood-borne pathogens.

Recommendation 4

That the Sheriff-Coroner ensure staff receive appropriate annual training on infection control, AirID and blood-borne pathogens.

Finding 5

The Coroner's Bureau facility does not have the Powered Air Purifying Respirator (AirID) equipment necessary to safely conduct high risk autopsies.

Recommendation 5

That the Sheriff-Coroner provide personnel with appropriate full-face powered air purifying respirators.

Finding 6

The Coroner's Bureau does not test employees nor provide vaccines for tuberculosis or Hepatitis B.

Recommendation 6

That the Sheriff-Coroner initiate testing protocol to ensure personnel are not exposed to infectious diseases and provide necessary vaccines.

Finding 7

The Coroner's Bureau does not provide formaldehyde monitoring devices.

SANTA BARBARA SHERIFF-CORONER'S BUREAU

Recommendation 7

That the Sheriff-Coroner acquire and utilize the formaldehyde monitoring equipment necessary for testing the air for unacceptable levels of formaldehyde for the health and safety of the staff.

REQUEST FOR RESPONSE

Pursuant to California Penal Code Section 933 and 933.05, the Jury requests each entity or individual named below to respond to the enumerated findings and recommendations within the specified statutory time limit.

Santa Barbara County Board of Supervisors – 90 Days

Finding 1, 2

Recommendations 1a, 1b, 2

Santa Barbara County Sheriff-Coroner – 60 Days

Findings 1, 2, 3, 4, 5, 6, 7

Recommendations 2, 3, 4, 5, 6, 7

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Detention Facilities Report

DETENTION FACILITIES REPORT

INTRODUCTION

This report highlights the 2014-15 Santa Barbara County Grand Jury's inquiries into the condition and management of all public detention facilities within the County of Santa Barbara, as mandated by California Penal Code section 919, subdivision (b) and as part of the Jury's role as the public's "watchdog" over the affairs of local government.

The Jury's inquiries included inspections of all detention facilities operated by the Santa Barbara County Sheriff's Office, the Santa Barbara County Probation Department, and municipal police departments.

METHOD OF INQUIRY

In the fall of 2014, members of the Jury visited each of the facilities listed in this report. Deputies, police officials, and staff on site at the time of the visits were interviewed and each facility was inspected. The Jury reviewed previous detention facility reports prior to inspections in order to confirm that issues raised by previous Juries were addressed.

OBSERVATIONS

General Observations of All Facilities

Staffing

Jail facilities have fared no better than any other departments within Santa Barbara County as they all learn to function with decreased staffing. However, staffing issues at detention facilities pose a more imminent threat in light of public safety and inmate issues. Although the hiring process is lengthy due to stringent qualifications, recruitment is not a problem as hundreds of applicants apply for vacant positions.

Staff interviewed at all facilities were professional, courteous and knowledgeable. The Jury recognizes the challenges the decreased staffing issue has created and commends everyone on the professional manner in which they handle their law enforcement duties.

Monitoring

All facilities appear to make good use of video monitoring equipment.

Santa Barbara County Sheriff's Office Budget Process

Input from detention personnel to the Sheriff's Chief Financial Officer (CFO) during the budget process is limited. Under the Sheriff's Office's current budget preparation protocol there seems to

DETENTION FACILITIES REPORT

be a lack of communications between the CFO preparing the budget and personnel actually operating and working in the various facilities. Staff input to the budgeting process, as early as possible, can be invaluable when evaluating needs specific to individual divisions especially in times of financial constraints. The Jury learned the pre-2008 budget process will resume with the 2015-16 budget process where divisions heads will be consulted as to their needs for the fiscal year.

Santa Barbara County Sheriff's Office Custody Facilities

Santa Barbara County Main Jail

The Main Jail (Jail) houses pretrial detainees as well as sentenced inmates. It is a facility with male and female offenders housed separately. While the Jail population fluctuates, on August 12, 2014, the Jail had a rated capacity of 659 with an average daily population of 726.¹ The Jail receives offenders from the Sheriff's Patrol and Santa Maria Branch Jail; the Santa Barbara, Santa Maria, and Lompoc Police Departments; and the California Highway Patrol.

Overcrowding

As in past years, the Jury was notified of and observed overcrowded conditions in the Jail. Passage of AB 109 in October 2011, which forced the transfer of inmates from overcrowded state prisons to county jails, has adversely affected the entire jail environment within California. Prior to AB109 the average length of stay in the Jail was 20 days. It has now increased to over one year due to the incarceration of serious long-term offenders.

The following actions have been implemented to resolve crowding issues:

- Two large conference rooms in the basement of the Jail have been converted to accommodate 120 beds
- Under the Early Release Program, when the Jail reaches 80 percent of capacity inmates who are within seven days of being released are released early
- The creation of alternative court-ordered sentencing methods including the Electronic Monitoring Program and the Sheriff's Work Alternative Program, available to both qualified male and female inmates
- Reopening of the Santa Maria Sheriff's Branch Jail with a capacity of 25 inmates

The new Northern Branch Jail, scheduled to be open in 2018, will ease overcrowding. Once the new facility is operational, sections of the existing Jail may be shut down, including the medium security area (formerly known as the honor farm) and the converted basement area.

Santa Maria Sheriff's Branch Jail

At the time of the Jury's visit there were 25 inmates housed in this facility, which is the maximum capacity. Unlike the Jail in Santa Barbara and the Lompoc Jail, the Santa Maria Sheriff's Branch Jail facility is adequately staffed with one custody deputy lieutenant, two custody deputy sergeants, 11 custody deputies and two support staff. This facility accounts for 32 percent of the total Santa Barbara County bookings.²

¹ Santa Barbara County Sheriff's Office, Custody Operations, 2014 Fact Sheet, Updated on 8/12/14.

² www.SBSheriff.org/SantaMariaJail.html last visited on December 11, 2014.

DETENTION FACILITIES REPORT

The Jury received information from staff that the jail is in need of operational equipment such as utility and transportation vans, popper ball launcher, gas masks, protective gear and office furniture.

Court Holding Facilities

General Observations

Transporting inmates from the Santa Barbara Main Jail to any one of the four Santa Barbara County courthouses is a significant endeavor. Inmates transported to either the downtown Santa Barbara, Lompoc or Santa Maria court holding facilities start their day at 4 a.m. and 15 percent of the jail population can be in transit five days a week. Complicating the transportation issue is the need to segregate inmates for safety reasons based on gender, medical, inmate classification and/or gang affiliation.

Santa Barbara Sheriff's Court Holding Facility

This facility consists of four isolation cells and eight holding cells holding up to 12 inmates each. The court holding facility is often overcrowded especially on heavy court days. The overcrowding has created safety issues for staff and inmates. Safety of the general public is a major concern when inmates who must appear in courtrooms in the historic courthouse are escorted in handcuffs and leg irons across Figueroa Street.

These safety issues will be addressed by the future construction of the new criminal court complex behind the existing Figueroa Street Superior Courthouse in downtown Santa Barbara. It will be designed so that inmates can be transferred via a secure route to their court appearances.

Lompoc Sheriff's Court Holding Facility

This facility consists of five holding cells. Three of the cells are used to hold inmates who cannot be kept with others due to gender, medical or other reasons. No discrepancies were noted.

Santa Maria Sheriff's Court Holding Facility

This facility consists of 17 holding cells. No discrepancies were noted.

Santa Barbara County Sheriff's Substations

General Observations

Satellite Sheriff's Substations are used as temporary holding facilities and do not house inmates overnight. The maximum holding time is four hours. All holding cells were clean, contained a toilet, access to drinking water and were unoccupied at the time of inspection. General procedure dictates that whenever possible arrestees are taken immediately to either the Jail or the Santa Maria Branch Jail for booking. Information regarding the treatment of juveniles in custody was clearly posted in all facilities.

Isla Vista Foot Patrol

The Isla Vista Foot Patrol (IVFP) building is relatively new and well maintained. No discrepancies were noted.

DETENTION FACILITIES REPORT

The IVFP works closely with the University of California at Santa Barbara (UCSB) police. The UCSB police help patrol the Isla Vista (IV) area. In response to recent violence, UCSB has increased its law enforcement staffing.

Under normal operating conditions staffing is adequate. However, when large unsanctioned community events take place, such as Halloween and Deltopia gatherings, up to 100 extra officers are called in to provide security. Creative modifications to normal operating practices have been developed to deal with the large number of intoxicated individuals and arrests. The IV Theater is rented and used for briefing the large number of officers. A portable booking station is set up in the IVFP parking lot and a Sheriff's van is used to transfer multiple arrestees to the Main Jail. This practice maximizes the effectiveness of law enforcement personnel.

Solvang Sheriff's Holding Cell

There is one holding cell at this facility. No discrepancies were noted.

Carpinteria Sheriff's Substation

The Carpinteria Sheriff's Substation has two holding cells and is located on the east side of Carpinteria's City Hall.

The Substation has lost its administrative staff due to budget cutbacks. Per the agreement between the City of Carpinteria and Santa Barbara County Sheriff, staff go directly to the City of Carpinteria to request supplies.

As noted by previous Grand Juries, the tile floor in front of the two holding cells is cracked and has not been replaced or repaired. Asbestos is part of the tile material and due to the more serious potential health hazard and cost in removing asbestos, the cracked tiles will not be removed.

Lompoc Sheriff's Substation

Located on Harris Grade Road, the facility has one holding cell and one interview room used mainly for interviewing inmates prior to being escorted to the Main Jail in Santa Barbara. The interview room can be used as a holding cell. No discrepancies were noted.

Santa Maria Sheriff's Substation

The Santa Maria Sheriff's Substation services the unincorporated areas of the Santa Maria Valley including Casmalia, Orcutt, Los Alamos and Garey. No discrepancies were noted.

New Cuyama Sheriff's Substation

The holding cell in New Cuyama is rarely used, and then only for a very short time before a detainee is transported to the Sheriff's Santa Maria Branch Jail for booking. The last time this cell was used was in December of 2011. No discrepancies were noted.

Municipal Jails

City of Santa Barbara Jail

DETENTION FACILITIES REPORT

There are two holding cells. It was noted that because the building was built in 1960 and is over 50 years old, there are many maintenance problems. Most notable was the air conditioning. The bid for the air conditioning upgrade/repair has been budgeted and is working its way through the process.

City of Santa Maria Jail

There is one holding cell. There were no discrepancies noted. The City has plans to relocate the jail to a larger facility in early 2015.

City of Lompoc Jail

This facility was opened in 1959 and is rated for 23 beds. On the day of the inspection there were two inmates housed at the facility. The facility consists of six cells, a sobering cell, booking area and a small kitchen.

The Lompoc Jail has updated its Policy and Procedure Manual in response to a prior inspection conducted by the California Board of State and Community Corrections (CBSCC) noting significant lapses with hourly jail checks. The Jury's review of documents indicated that the lapses have been corrected.

Two security concerns were noted by the Jury. On an average day, inmates can be left unsupervised for short periods of time when the single jailor escorts an inmate to court. Inmates left unsupervised for any length of time could be of danger to themselves or others. This situation sets the stage for the possibility of inmates passing contraband, fighting in cells, assaults and other unforeseeable possibilities that can occur in a correctional setting. The October 2013 CBSCC³ report identified this as a safety issue and recommended the hiring of more staff.

The Santa Barbara County court holding facility in Lompoc is located across an enclosed and gated parking lot where at least two sheriff's custody officers are on duty after having transported inmates from the Santa Barbara Main Jail for their court appearances. A safer solution to leaving the Lompoc jail prisoners unsupervised would be to have a sheriff's custody officer escort the Lompoc jail inmate from the Lompoc jail to the court holding facility thereby allowing the Lompoc jailor to remain in his facility.

The second security concern involves key control. Some staff carry facility keys in an unsecured manner while transporting an inmate to court. This procedure presents the potential for inmates to overpower the officer and gain access to all facility keys, which could lead to a dangerous situation.

County Probation Department

General Observations

The Probation Department maintains three juvenile detention facilities:

- Susan J. Gionfriddo Juvenile Justice Center, Santa Maria
- La Posada Juvenile Hall, Santa Barbara
- Los Prietos Boys Camp Santa Barbara

³ California Board of State and Community Corrections Adult Detention Facility Inspection Cycle Information, October 1, 2013.

DETENTION FACILITIES REPORT

Susan J. Gionfriddo Juvenile Justice Center, Santa Maria

This is the only 24-hour maximum security facility for youthful offenders in Santa Barbara County. Males and females, ranging from 12 to 18 years of age, are housed here. Youth placed in this facility come from the juvenile justice system. The facility has six units with a total capacity of 140. At the time of the Jury's visit, half of the units were not in use. The number of wards has steadily been decreasing. During the Jury's 2013 visit there were 94 minors in custody and at this year's visit there were 51; 41 males and 10 females. The average age of 16 years has remained the same.

Units I, II and III are currently not in use. Unit IV is coed and houses females and vulnerable males. Units V and VI house only male youths who are completing the adjudication process. Unit VI serves as the primary housing unit for long term detainees.

The Grand Jury visited Unit I, which is being redesigned with mental health staff's input to address the special needs of female offenders who have been victimized and are experiencing emotional trauma. This unit is smaller, older and is being redecorated with bright colors and furnished with couches. Eligible female offenders will have access to more personal items and closer contact with each other which, as explained to the jurors, is important in their rehabilitation.

Programs

The following programs are available:

- Education -- Youth are required to work on their education through the Santa Barbara County Education Office, which provides a complete high school program with classroom time
- Treatment Plan - Each youth has an individual treatment plan designed in conjunction with the family, probation officer, mental health counselor and teachers
- Baby Elmo Program - This is the parenting program created to foster a nurturing environment to promote bonding between incarcerated youth and their children. This program is part of an on-going research project at Georgetown University

According to information provided and staff interviews at the time of this inspection, 83 percent of the youth have open mental health cases, while 22 percent are on psychotropic medication.

La Posada Juvenile Hall, Santa Barbara

La Posada is used as a temporary holding facility in Santa Barbara for South County wards held at the Santa Maria Juvenile Justice Center while they wait to attend court in Santa Barbara. The status of this facility is currently being discussed.

The facility has 60 cells which are used if a large number (considered more than six) of juveniles are awaiting court. The facility has also been used when the Los Prietos Boys Camp has been evacuated due to a fire.

The Main Jail will be using the La Posada kitchen facilities to prepare meals for the Main Jail while their kitchen is being remodeled. The La Posada kitchen has been cleaned and modified as it has not been used in many years.

DETENTION FACILITIES REPORT

Los Prietos Boys Camp

Los Prietos Boys Camp is a program designed to help male youth return to the community as more responsible and productive citizens. All youth committed are required to complete a program with positive reinforcement and encouragement.

The Santa Barbara County Education Office operates Los Robles High School on the campus of Los Prietos Boys Camp. In addition, vocational programs are offered for specialized training in landscape design, printing, computer technology and culinary arts. High school graduates are offered online college course work in addition to vocational training. Graduates can also apply for scholarships for higher education offered by local service organizations.

CONCLUSION

The 2014-15 Santa Barbara County Grand Jury visited all detention facilities within the County. The Jury met with helpful and courteous supervisory staff during each visit. The facilities were found to be functional. Overcrowding continues to be an ongoing issue at the Santa Barbara Main Jail.

The Jury was impressed with the operation of juvenile facilities and the quality of programs available to juvenile offenders within the County. Juvenile crime prevention programs appear to be having a positive impact.

The Jury learned that Sheriff's detention facility heads were not consulted during the annual budget preparation process.

Santa Maria Branch Jail indicated a need for specific operational equipment.

The Jury identified two City of Lompoc jail concerns. One concern is that the jail is left unattended when the jailor transports inmates to the adjacent court holding facility. The other concern is Lompoc jail key security.

FINDINGS AND RECOMMENDATIONS

Finding 1

The Sheriff's detention facility heads were not consulted during the budget preparation process.

Recommendation 1

That the Sheriff's detention facility heads be consulted during the annual budget preparation process.

Finding 2

The Santa Maria Sheriff's Branch Jail is in need of operational equipment.

Recommendation 2

DETENTION FACILITIES REPORT

That the Santa Barbara County Sheriff's Office evaluate the need for the requested operational equipment.

Finding 3

Inmates of the City of Lompoc Jail are left unattended when the jailor escorts other inmates across the parking lot to the court holding facility.

Recommendation 3

That a sheriff's custody officer from the court holding facility escort the inmates from the City of Lompoc Jail to the court holding facility.

Finding 4

Some City of Lompoc jailors carry jail facility keys in an unsecured manner on their person.

Recommendation 4

That the City of Lompoc jailors carry the jail facility keys in a secure manner.

REQUEST FOR RESPONSE

Pursuant to California Penal Code Sections 933 and 933.05, the Jury requests each entity or individual named below to respond to the enumerated findings and recommendations within the specified statutory time limit:

Santa Barbara County Sheriff – 60 days

Findings 1, 2, and 3

Recommendations 1, 2, and 3

City of Lompoc – 90 days

Findings 3 and 4

Recommendations 3 and 4



Grand Jury Activity Reports

SANTA BARBARA COUNTY PUBLIC HEALTH DEPARTMENT

Protecting Our Human Infrastructure

INTRODUCTION

The 2014-15 Santa Barbara County Grand Jury (Jury) received a request to investigate the preparedness of Santa Barbara County to deal with an infectious disease emergency.

Early in 2014, the people of Western Africa were already suffering the devastation of an epidemic of Ebola Hemorrhagic Fever (Ebola). Medical care workers such as Doctors Without Borders were alerting the world medical community that this viral disease, which has no known cure or preventative vaccine and is highly contagious, could possibly reach pandemic levels in this globalized world. In September 2014, when a virulent case of Ebola presented to a Texas community hospital emergency room with a disastrous outcome, a frightened American public began to question the preparedness of their national and local public health systems.

BACKGROUND

During the Jury's initial contact with the medical and administrative staff of the Santa Barbara Public Health Department (SBPHD), it learned there exists a well-established coalition of public and private health care providers. This coalition is a multi-tiered communication system reaching from the national Centers for Disease Control to the California State Department of Health (CSDH) to the 58 county public health departments to every licensed private health care provider. The CSDH ensures the readiness of each local county health department by requiring an annual simulation drill which tests the strengths and weakness of all components of the department. Each department designates the area of focus for the drill, plans, executes, and evaluates the actual operation. An after-action report to the CSDH must be submitted within 90 days of the simulation. The focal point of this collaborative team effort is to ensure all necessary resources are available to the public and first responders are properly trained.

Wisely, in early August, the SBPHD heeded the alert from the world health community and decided to develop their simulation drill against the threat of a local Ebola infection. Focusing their attention on this goal, the SBPHD tested its preparedness during a four-hour drill in mid-November 2014. Members of the Jury were invited to observe the entire activity and were given access to view the use of communication technology in partnership with their local private health care providers and private service contractors.

The drill plan designed by the SBPHD created the Department Operation Center (DOC) and an Ebola Response Team (ERT). The DOC was comprised of five components: (1) Incident Command, (2) Operations, (3) Planning, (4) Logistics, and (5) Fiscal. Each component had defined roles, responsibilities, and a chain of command. Public and private partners such as

SANTA BARBARA COUNTY PUBLIC HEALTH DEPARTMENT

American Medical Response (AMR), all area hospitals, medical laboratories, fire agencies including hazmat teams, law enforcement, ServiceMaster, and animal control all participated. A staff member from the Santa Barbara County Emergency Operations Center (EOC) observed the entire drill.

METHODOLOGY

The Jury had separate interviews with SBPHD officials including the Medical Director. Some Jurors were designated official observers at the annual drill conducted by the Department at their location at 300 San Antonio Road. These observers were invited to speak with some of the participating agencies regarding their specific roles, responsibilities, and contributions in this infectious disease exercise. Additionally, the Jury visited the SBPHD website, <http://www.countyofsb.org/phd> for the most recent infectious disease control guidelines.

OBSERVATIONS

These state-required annual simulations are designed to build organizational resiliency against public health catastrophic events. The focus of this year's effort was to test the SBPHD and their public/private partners' readiness to handle a symptomatic Ebola patient in our community while maintaining the safety of the health care workers and the general public.

Immediately following the simulation, each component of the DOC reported to all the participants the most prominent concern identified by their area of the operation. Not surprisingly, most reported their need for better communication lines and upgrades to existing software and technology. Several weeks following the drill, the Jury was able to study the SBPHD's preliminary after-action report which identified more specific needs for strengthening their infectious disease preparedness plans.

The following are some areas of concern for specific improvement and some remediation that has been completed or is in progress:

Logistics: Computers lacked standard software and easy access to DOC files. Information Technology (IT) will update DOC computers and ensure access to the necessary data.

Command: Hotlines for the "worried well" were established, but adequacy was questioned. The Public Information Officer identified additional call centers in other County departments and in the Public Information Officer room (Joint Information Center) at the County EOC. Video conferences with Santa Barbara, Goleta Valley, and Santa Ynez Valley Cottage hospitals worked well. There is a need to test video conference capability with all hospitals in the County.

Ebola Response Team: Additionally, more Personal Protection Equipment (PPE) was required. A shipment received in December provided an adequate supply. They need more ERT members. SBPHD has successfully recruited adequate volunteers who will participate in PPE meetings and response role training.

SANTA BARBARA COUNTY PUBLIC HEALTH DEPARTMENT

Field Operations: County Animal Services was not prepared for the initial response. This Department will be incorporated in the plan to provide decontamination services and quarantine of any exposed animals.

Emergency Medical Services: AMR needs a Sheriff/city police or California Highway Patrol escort for their Ebola-equipped ambulance. SBPHD is working with these law enforcement agencies to establish a standard operation plan for scene security and escort to the appropriate hospital.

CONCLUSION

The value of the annual drills by the Santa Barbara Public Health Department (SBPHD) is reflected in the effectiveness of its staff, the adequacy of its equipment, and its solid relationship with public and private health care partners. This repeated planning for risk develops a level of redundancy in an organization that is critical to its resiliency in the face of any catastrophic challenge.¹

The Jury encourages the public to maintain their personal awareness of all health alerts issued by the SBPHD through the local print and broadcast media, on the Department's website at <http://www.countyofsb.org/phd>, follow Twitter @SBCPublic Health or Facebook: Santa Barbara County Public Health Department. For consultation or self-reporting of a suspected infectious disease, call the County Health Officer on the 24/7 phone line at (805) 681-5280.

The 2014-15 Santa Barbara County Grand Jury is confident that the infectious disease preparedness plans established by the Santa Barbara Public Health Department are adequate and ready for implementation when needed.

Under *California Penal Code Section 933.05* this report does not require a response.

¹ Rodin, Judith. *The Resilience Dividend; Being strong in a world where things go wrong*. New York: Public Affairs, 2014.

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ELEMENTARY SCHOOL TRUANCY

This is Where it Starts

SUMMARY

Santa Barbara County Grand Juries have a history of investigating school truancy and previous Grand Juries promoted intervention programs that are currently being used. These programs are showing continued success. While these programs cover all educational levels, the 2014-15 Santa Barbara County Grand Jury (Jury) reviewed truancy reduction programs in the elementary schools. The Jury is particularly interested in the use of the Community Leadership in Achieving Student Success (CLASS) program as it relates to elementary students. The Jury investigated the reasons for chronic truancy at this level.

METHODOLOGY

The Jury held interviews with several elementary school district superintendents, a county probation official, and the District Attorney's truancy reduction staff. The Jury sent out questionnaires to several school districts and reviewed goals 5 and 6 of their Local Control Accountability Plans, which address keeping students in school. The Jury also studied current state and county truancy data and reviewed previous Jury reports.

OBSERVATIONS

The CLASS program established by the Santa Barbara County District Attorney's Office is used at all public school districts in the county, including elementary:

- Step 1 is a letter informing parents of their child's unexcused absences and the relevant laws regarding school attendance
- Step 2 is a group meeting focusing on parent and student accountability, social and legal consequences of truancy, and information regarding county and community resources
- Step 3 is a meeting with an administrator focusing on addressing individual attendance needs, and where a contract with the school may be signed
- Step 4 is a meeting with representatives from the school and the District Attorney's Office, focusing on addressing individual attendance needs and where a Truancy Mediation Team contract may be signed
- Step 5 is a meeting with an independent panel of district, county and community participants, with possible referral to Probation or the District Attorney

Few elementary students reach Step 5, the final component of the CLASS program. This is because several school superintendents utilize local programs to provide students and their parents

ELEMENTARY SCHOOL TRUANCY

with counselors and social workers to combat truancy causation. The CLASS program has created consistency and emphasized parental accountability and consequences.

Recent state studies have reported the impact of a child's attendance on his or her academic success starts in kindergarten. Chronically absent kindergartners perform below their better attending peers on math and reading skills assessments. These effects are particularly pronounced as absences increase. In California, fourth graders who missed more than three days of class in the month prior to taking national assessments scored more than a full grade level below their peers with no absences during that period.¹

Parental attitude and participation is very important at establishing regular school attendance. Children need to develop the habit of attending school in order to be successful. Some parents seem indifferent as to whether their child attends school regularly. When students are taken out of school by parents for unexcused absences, it disrupts learning. If a student falls behind because of truancy, the child may become discouraged and feel defeated. This can ultimately lead to an attitude of not wanting to attend school, resulting in chronic truancy.

CONCLUSION

An early truancy intervention program can educate youth and parents, helping them realize the importance of school attendance. The Jury learned the success of the CLASS program at the elementary level is improving middle and high school attendance.

Since the implementation of the CLASS program, elementary records reflect a significant drop in truancy between Step 2 and Step 3. School districts have praised the District Attorney's CLASS staff in developing this successful truancy reduction program. The collaboration among participating agencies and community resources has been very successful in identifying students in danger of falling behind academically.

The 2014-15 Santa Barbara County Grand Jury applauds the District Attorney's Office and the Board of Supervisors for their continued funding and support of the CLASS program. The Jury also commends the school districts for their ongoing efforts to ensure the educational success of our youngest students.

Under *California Penal Code Section 933.05* this report does not require a response.

¹ Attorney General's 2014 report on California's Elementary School Truancy and Absenteeism Crisis
<http://oag.ca.gov/truancy> Last visited February 22, 2015

MONTECITO WATER DISTRICT TIGHTENS THE VALVE

“If The Grass Is Greener On The Other Side Of The Fence, You Can Bet The Water Bill Is Higher” – Anonymous

SUMMARY

The 2014-15 Santa Barbara County Grand Jury (Jury) received an inquiry concerning Montecito Water District’s implementation of Ordinances 92 and 93. These ordinances deal with allocating water during the water shortage emergency, including penalties and restrictions. The contention was made that the actual application of Montecito Water District’s rates was different from what was presented during the approval process.

BACKGROUND

Most Californians receive their water through the city in which they reside. Those who live in unincorporated areas receive water through state regulated water districts, governed by elected board members. The Montecito Water District (MWD) includes the unincorporated communities of Montecito and Summerland, with a total population of 13,100, providing water to approximately 4,500 customers. MWD encompasses an area of 9,888 acres, 6,883 of which are developed. Of the developed area, 98 percent is residential and 2 percent commercial. MWD also serves 849 acres which are designated agricultural.¹

The Montecito Water District has four sources of water:

- Lake Cachuma Project Water - 39%
- Jameson Lake, Fox and Alder Creeks - 21%
- Doulton Tunnel and groundwater basin - 9%
- State Water Project - 31%

California is entering its fourth year of drought, forcing the state, some cities, and water districts to take actions to reduce water usage. Within Santa Barbara County, MWD has taken the most aggressive action.²

The MWD, acting under the authority of *State Water Code section 350*, implemented two ordinances (Ordinance 92 on February 11, 2014 and Ordinance 93 on February 21, 2014), declaring a water emergency and placing restrictions on water usage with the goal of a 30

¹ www.montecitowater.com/general.htm (last visited September 26, 2014)

² www.sbwater.org/interior.aspx?id (last visited October 26, 2014)

MONTECITO WATER DISTRICT TIGHTENS THE VALVE

percent reduction. Ordinance 92 deals with restrictions on water usage. Ordinance 93 establishes water allocations for residential, commercial and agricultural customers.

The concern was raised that the allocation for agricultural accounts was inequitable. The contention was that, under the new regulations, properties with both residential and agricultural use were not getting any water for residential, yet were being charged for it.

METHODOLOGY

The Jury reviewed MWD Ordinances 92 and 93, interviewed the MWD's management and customers, and examined customers' water bills. The Jury learned that prior to the adoption of the ordinances there were multiple public meetings and presentations for stakeholder review.

The Jury studied two customer groups: residential and agricultural. Residential users are charged according to the amount of water used, with the unit cost increasing as water use increases. If a customer surpasses their initial tier limit, they will be placed in the next tier, and charged incrementally at a higher rate. Agricultural users with residential dwellings are charged the residential rate for the first 20 hundred-cubic-feet used per dwelling. For these users, water consumption above the initial 20 hundred-cubic-feet per dwelling is charged at an agricultural rate. Prior to May 2014 MWD water bills did not distinguish between residential and agricultural usage. The new bill differentiates residential from agricultural usage.

CONCLUSION

The 2014-15 Santa Barbara County Grand Jury (Jury) finds that the allegations were incorrect. The Jury believes the confusion arose because of the way water charges were presented on the customers' bills. This problem was alleviated by a modified, improved bill that the District now uses, which differentiates residential and agricultural charges.

During a prolonged drought we are reminded of how precious a reliable water supply is to our way of life. The Jury commends community members who get involved with community actions that are proposed by our elected officials, such as the enactment of Ordinances 92 and 93 by the Montecito Water District.

Under *California Penal Code Section 933.05* this report does not require a response.

LAS POSITAS TENNIS FACILITY

SUMMARY

The 2014-15 Santa Barbara County Grand Jury (Jury) received a complaint alleging an unlawful transfer of the Las Positas municipal tennis facility (Facility) from the City of Santa Barbara (the City) to the Elings Park Foundation (Foundation), in violation of City Charter Section 520, Disposition of Real Property or a Public Utility. The complaint also stated the public had lost access to the Facility as a result of a rate increase by the Foundation, and that the Foundation failed to perform deferred maintenance.

The Jury found the transfer and lease of the Facility from the City to the Foundation properly documented, supported, and approved as per the City Charter. Daily prices for use of the courts are similar to or less than other city municipal tennis facilities. There are typically at least two courts open for drop-in public access. The maintenance issues are being addressed.

BACKGROUND

Elings Park (Park) is a 230 acre privately funded public park operated by the Elings Park Foundation. The Las Positas Park Foundation, predecessor to the Elings Park Foundation was renamed in 1999. The Park consists of two parcels. The Foundation leased 94 acres from the City in 1980 for \$1 per year through a 25 year lease. The current lease period for the original parcel is April 24, 2003-2028 (extended in 2003). When the Park was originally created, the Las Positas municipal tennis facility was excluded from the leased parcel and continued to be operated and maintained by the City's Parks and Recreation Department. In 1999 the Foundation purchased an additional 136 acres bringing the total to 230 acres. The Foundation operates solely on grants, donations, and revenues generated from park services.

The City operated the Facility and records reflect that it was subsidized by approximately \$15,000 per year through the general fund. Additionally, the City's capital improvement program identified the need for \$1.1 million to address deferred maintenance for the Facility.

In 2010, the City was experiencing budget challenges and had several meetings with community partners with the thought of transferring the Facility in order to continue offering tennis at this location. At that time, the Foundation was offering numerous recreational activities on the adjacent parcel. They believed that with the addition of the Facility, the overall recreational services offered would be enhanced. On December 7, 2010, the City initiated a lease agreement with the Foundation for the tennis facility for \$1 per year for 18 years with a onetime renewal option for an additional ten years. City Charter Section 520 states the City can lease property “.....compatible with and accessory to the purposes to which the property is devoted by the City

LAS POSITAS TENNIS FACILITY

and which are permitted by contract from and regulated by the City (approved by election held on November 2, 1982)”.

METHODOLOGY

The Jury reviewed records of the City Council meeting dated November 23, 2010, during which the lease and transfer were approved. The Jury also reviewed the contract transferring the Facility to the Foundation. It included approvals by the Parks and Recreation Director, City Administrator, City Council, City Attorney, and others. The contract with the City requires the Foundation to issue annual reports each year for the park. The Jury reviewed the Annual Report for 2012 issued by the Foundation. The Foundation received permission from the City to combine the 2013 and future Facility Annual Reports with the Foundation’s Annual Report.

The Jury interviewed the Foundation staff and the complainant, and also visited the Facility. The Jury observed the tennis courts and lighting to be in good condition. However, the restrooms, shower/locker rooms, storage/office rooms, and bleachers need repair. The parking lot is unpaved. In discussions with the Foundation staff, the Jury was shown remodel plans which are currently partially funded.

CONCLUSION

The 2014-15 Santa Barbara County Grand Jury found the transfer and lease of the Facility from the City of Santa Barbara to the Elings Park Foundation properly documented, supported, and approved. While the daily prices for use of the courts have gone up, they are similar to or less than other city municipal tennis facilities.^{1,2,3} There are typically two or more courts open for public access.

The tennis courts are adequately maintained. The Elings Park Foundation is continuing fundraising in order to complete the rebuilding of the restrooms, shower/locker rooms, and the storage/office building.

The Jury believes the City of Santa Barbara made a fiscally responsible decision by entering into a lease agreement with the Elings Park Foundation to operate, maintain and improve the Las Positas Tennis Facility.

¹ City of Santa Barbara Parks & Recreation Schedule of Fees and Charges, 2014-15

² Elings Foundation website last visited on 11/20/2014, www.elingspark.org/activities/tennis-2/

³ 2012 Annual Report, Las Positas Tennis Facility, 02/14/2013