



September 4, 2019

The Honorable Paul M. Haakenson
Presiding Judge
Marin County Superior Court

Mr. Pat Randolph
2018-2019 Foreperson,
Marin County Civil Grand Jury
P.O. Box 4988
San Rafael, CA 94913

Re: City of San Rafael response to "Marin's Telecommunications Disconnect" Marin County Civil Grand Jury report dated June 13, 2019

Dear Honorable Judge Haakenson and Foreperson Randolph:

At the regular City Council meeting on September 3, 2019, the San Rafael City Council reviewed the report "Marin's Telecommunications Disconnect" and in accordance with Penal Code 933 (c) responded to recommendations R2, R3, and R4 as requested. The response is attached.

Should the members of the Grand Jury require additional information, please contact Jim Schutz, City Manager, at (415) 485-3070.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary Phillips", followed by the initials "050".

Gary Phillips
Mayor

RESPONSE TO GRAND JURY REPORT FORM

Report Title: Marin's Telecommunications Disconnect
Report Date: June 13, 2019

Response By: San Rafael City Council
Title: Mayor and City Council

FINDINGS:

- We agree with the findings numbered N/A
- We disagree wholly or partially with the findings numbered N/A

RECOMMENDATIONS:

- Recommendations numbered N/A have been implemented.
- Recommendations numbered N/A have not yet been implemented, but will be implemented in the future.
- Recommendations numbered **R2, R3, and R4** requires further analysis.
(See Attachment A)
- Recommendations numbered N/A will not be implemented because they are not warranted or are not reasonable.

DATED: 9/15/19

Signed: 

GARY O. PHILLIPS, Mayor

ATTEST: 

Lindsay Lara, City Clerk

Number of pages attached: 2

**ATTACHMENT A: RESPONSE OF THE CITY OF SAN RAFAEL TO GRAND JURY
REPORT "MARIN'S TELECOMMUNICATIONS DISCONNECT"**

RECOMMENDATIONS AND RESPONSES

R2: The MTA's franchise fee collection and disbursement responsibilities should be moved to the MGSA.

Response: This recommendation requires further analysis.

The City of San Rafael is a member of both the Marin Telecommunications Agency (MTA) and the Marin General Services Authority (MGSA). According to the MTA, these two joint powers authorities have engaged in discussions regarding the assumption by MGSA of MTA's functions related to the collection and disbursement of franchise fees. More recently, in 2018, the MTA's Executive Officer and MGSA's Executive Director met to discuss possible arrangements and determined that incorporating the responsibilities of MTA into MGSA's existing staffing and programmatic structure was not feasible. These conversations resulted in MTA retaining that function. Should the current franchise fee revenue stream decline, it may be advisable at some point to reevaluate the most cost-effective approach. However, at this time, the City recommends that the MTA retain its franchise fee collection and disbursement responsibilities.

R3. MTA's responsibilities for CMCM should be terminated.

Response: This recommendation requires further analysis.

The relationship between MTA and Community Media Center of Marin (CMCM) is built upon two foundations, which are as follows: the Designated Access Provider (DAP) contractual agreement between the MTA and CMCM; and Section 5780(b) of the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), which states the following: "The PEG channels shall be for the exclusive use of the local entity or its designee to provide public, educational, and governmental channels." The MTA has entered into a contractual agreement with CMCM, a non-profit organization, to serve as the Designated Access Provider to control and manage the use of PEG access facilities and equipment. The provisions of this agreement include MTA's ownership of the capital equipment that CMCM purchases using PEG funds to establish the broadcast and transmission capabilities at each city, town and the County. This agreement provides that CMCM shall manage the exclusive provision of public, education, and government channels. MTA oversight of the CMCM activities and expenditures are duties required to ensure compliance with state law and the Designated Access Provider (DAP) agreement. At this time, the City of San Rafael recommends that the MTA continue its responsibilities for CMCM.

R4: The MTA should be dissolved.

Response: This recommendation requires further analysis.

The MTA is a joint powers authority that was formed in 1998 to provide participating agencies increased coordination with respect to franchising and regulating telecommunications services and to set policies that provide more effective and efficient telecommunications benefits to the community. On September 29, 2006, the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) was passed into law, which required that video franchises be issued by the California Public Utilities Commission, rather than local entities. The effect of DIVCA, and its later amendments, was to divest the MTA and its member jurisdictions (i.e., Marin County and its municipalities) of control over local telecommunications (including internet access), leaving it with specific authority only over cable TV franchise and PEG fees. Given this reduction in its responsibility, the MTA narrowed its mission statement in 2016 but still identified telecommunications as an area of continuing local concern, as follows:

Support availability, accessibility, affordability and public inclusion in the advancement and enhancement of telecommunications infrastructure and services in Marin on behalf of MTA's members and the community.

In alignment with their mission, the MTA has four Strategic Directions:

1. Continue to Perform Cable Franchise Administration, including, but not limited to, Provider Revenue Audits and Customer Service Assistance, and Other Administrative Functions.
2. Support and Oversee Public, Educational and Governmental (PEG) Access.
3. Provide Coordination, Policy Guidance and Advocacy Related to Telecommunications on Behalf of MTA's Members and the Community.
4. Support Broadband Infrastructure Expansion, Services, Affordability and Accessibility

The MTA Board of Directors is aware of the changing environment of the administration of telecommunications services at the local level, and has involved each of its member agencies, including the City of San Rafael, in discussions surrounding appropriate and responsible actions to accommodate those changes. If the MTA Board of Directors decides to reconsider its activities, it will conduct a detailed evaluation of its options, and make decisions based on its findings. As a member agency of the Marin Telecommunications Agency, the City of San Rafael will continue to be part of that evaluation, and will take action accordingly.