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February 26, 2021

The Honorable Judge Andrew Sweet
Marin County Superior Court
P.O. Box 4988
San Rafael, CA 94913-4988

Ms. Lucy Dilworth, Foreperson
Marin County Civil Grand Jury
3501 Civic Center Drive, Room #275
San Rafael, CA 94903

SUBJECT: Response to Marin County Civil Grand Jury Report on “Roadblocks to Safer Evacuation in Marin”

Dear Judge Sweet and Ms. Dilworth:

On February 25, 2021, the Transportation Authority of Marin (TAM) Board of Commissioners reviewed and approved TAM’s response to the Marin County Civil Grand Jury Report on “Roadblocks to Safer Evacuation in Marin.” Attached is TAM’s response for your review and acceptance.

Please contact TAM’s Executive Director, Anne Richman, at arichman@tam.ca.gov or 415-226-0820 if you have any questions about TAM’s response.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Eric Lucan', is written over a light blue horizontal line.

Eric Lucan
Chairperson, TAM Board of Commissioners

Attachment: TAM Response to Grand Jury Report

TAM RESPONSE TO GRAND JURY REPORT

Report Title: Roadblocks to Safer Evacuation in Marin
Report Date: December 14, 2020
Response by: Transportation Authority of Marin (TAM)
Respond by Date: March 14, 2021

FINDINGS

- F1. No single agency or jurisdiction is taking responsibility and authority for building infrastructure for safe evacuation routes across jurisdictions in Marin County.**

Response: Disagree Partially.

There is currently no single agency or jurisdiction with the broad-based authority for building infrastructure across multi-jurisdictions in Marin County. Operating, maintaining, and improving infrastructure are the responsibilities of the individual jurisdiction, including all liabilities and associated risks. Generally, when an agency seeks to implement infrastructure improvements beyond its boundary, the implementing agency enters into a cooperative agreement with neighboring agency or agencies specific to the project. To date, TAM is not aware of any agency in Marin County that would transfer responsibility and authority of its assets to an outside agency.

- F2. There is confusion in the county as to who has ultimate responsibility and authority for ensuring that Marin has safe evacuation routes.**

Response: Disagree Partially.

It is TAM staff's understanding that the newly formed Marin Wildfire Prevention Authority (MWPA) is in the process of developing evacuation plans county-wide, including an assessment of evacuation routes. This work is being planned in cooperation with a range of partners including emergency responders, local jurisdictions, Caltrans, CHP, and TAM. In the event of an emergency, emergency response agencies (police, fire) would have authority over an evacuation. These responsibilities seem clear. Additionally, each local municipality has designated evacuation routes and is responsible for the development of safety elements in its general plan, and local hazard mitigation plan that identify risks, and mitigations to these risks. Recent state legislation, AB 747, requires that local jurisdictions without existing adopted local hazard mitigation plans to identify evacuation routes and their capacity, safety, and viability under a range of emergency scenarios before January 2, 2022. Each local municipality is aware of the requirements and responsibility to coordinate with neighboring municipalities in joint efforts.

- F6. As Marin's designated "congestion management agency," the Transportation Authority of Marin, is best positioned to coordinate and support the funding of public works projects for improving evacuation routes, including cross-jurisdictional evacuation routes.**

Response: Disagree Wholly.

TAM provides various funding to jurisdictions for local public works (transportation) projects but does not have the authority to define the scope of a project. Local municipalities control their assets and coordinate with adjacent jurisdictions when improving their infrastructure. Transportation

projects often include a variety of funding sources and TAM's funds may only be one of many sources. Additionally, TAM is not involved in the development of local hazard mitigation plans, general plan safety elements, and in identifying the wide range of risks from natural hazards, nor appropriate mitigations to these risks. To the extent that TAM can serve as a resource to support local transportation improvements that might be feasible and desired by a local jurisdiction, TAM can consider how it might do so.

TAM's largest source of funding is from the Measure AA Expenditure Plan that was approved by Marin voters in 2018, authorizing TAM to collect a 1/2 cent sales tax for transportation improvements. The Measure AA Expenditure Plan is divided into categories and sub-categories of funding for specific projects and programs.

Of the funds collected, 95.5% of the funds either goes directly to transit agencies and municipalities by formulas or for programs enumerated in the Expenditure Plan.

Out of the 95.5% noted, 77% of the funds are distributed to transit agencies and municipalities by formula annually - 55% to transit and 22% to municipalities for local streets and roads maintenance. Note that the transit funds are typically used primarily for operations rather than for capital projects. TAM could encourage transit agencies and municipalities to consider evacuation goals with the use of Measure AA funds but the ultimate decisions rest with governing boards of each agency. The other 18.5% in this formula is allocated to programs managed by TAM but has no reasonable nexus to evacuation efforts, with 10.5% to the Safe Routes to School Program that promote safe walking and bicycling to schools and the Crossing Guard Program that covers the costs of deploying crossing guards at key intersections. The Safe Pathway Program receives 4% of the Measure AA funds for infrastructure projects that encourage students to walk or bike to schools by making safety infrastructure improvements to key school corridors. These safety improvements are typically antithesis to evacuation goals because they are designed to reduce vehicular speed and capacity. Another 3.5% is reserve for improvements to Highway 101 and 0.5% for implementing commute alternatives and trip reduction strategies.

The remaining 4.5% (local interchanges, sea level rise mitigation projects, and operational improvements to local streets and roads through innovative technology) that TAM manages may present opportunities whereby evacuation goals may be used as criteria in project evaluation along with other criteria mandated by the Measure AA Expenditure Plan.

TAM also receives state and federal funds for transportation projects in the County. State and federal funds come with specific requirements and are often designated for use on specific projects. When allowed, TAM could consider evacuation as a criterion in project evaluation for those funds.

F7. Contrary to its previous responses to the Grand Jury, the Transportation Authority of Marin is not precluded or constrained from incorporating evacuation planning needs as a criterion in its infrastructure projects.

Response: Disagree Partially.

TAM manages the distribution of a variety of local, state, and federal funds that have specific criteria in infrastructure project evaluation or may be designated for specific projects. When opportunities are permissible to include evaluation criterion in the project evaluation, TAM will consider doing so.

- F8. The Transportation Authority of Marin’s decision-making process is inadequate unless it includes evacuation as a criterion when funding improvements.**

Response: Disagree Wholly.

As noted above, TAM manages a variety of other local, state, and federal funds. TAM is required to evaluate projects in accordance with criteria set forth by each funding source. The evaluation criteria vary from source to source. TAM is legally and contractually obligated to follow the criteria established by each funding source. Where permissible and not inconsistent to the funding sources, TAM can include evacuation goals in project evaluation along with goals set forth by funds sources.

- F9. The Marin Wildfire Prevention Authority’s Advisory/Technical Committee would benefit from having the expertise of the Transportation Authority of Marin to advise on evacuation infrastructure needs.**

Response: Agree.

TAM’s representation on MWPA’s Advisory/Technical Committee would be beneficial to support evacuation planning. TAM staff have been working cooperatively with MWPA on several efforts already, including providing administrative and technical information as MWPA ramps up their new agency and work. TAM will continue to coordinate with MWPA to support their efforts.

RECOMMENDATION

- R4. Within 120 days of the date of this report, the Transportation Authority of Marin should establish a criterion requiring that evacuation impacts be examined and stated when planning and funding infrastructure projects.**

Response: The recommendation will not be implemented because it is not warranted or is not reasonable.

TAM will not know all funding available for programming within 120 days. New one-time funding programs may be created by the State or the Metropolitan Transportation Commission (MTC) with state or federal funds for programming to specific types of projects with specific intents. Complying with R4 may subject TAM to administer local, state, and federal funds that are inconsistent with the legal requirements of the funding sources.

Where allowed, TAM can consider establishing criterion to examine evacuation impacts based on the requirements and eligible activities of each funding source at the time funding becomes available. Establishing funding criteria in advance of understanding the requirements of any particular funding source is not feasible or appropriate. Even if TAM can impose evacuation criterion to a funding source, it cannot be accomplished within 120 days of the date of this report. TAM can only consider establishing evacuation criterion when a funding source is announced and made available to TAM for programming to projects.

Under such scenarios, TAM staff and the TAM Board would need to carefully consider the nuanced appropriateness of such a requirement in each case, including any potential policy or operational conflicts (or co-benefits). An example of this is the potential conflict between the goal of making streets wider to carry more cars to accommodate the event of an evacuation, and the also important goal of reducing vehicle miles travelled and emissions by making streets more friendly for bikes and pedestrians which often occurs by taking space from auto lanes for pathways or crossings.

Additionally, TAM would want to include recognition that emergency responders would have

ultimate authority in the event of an emergency, and not impinge on that authority. In some cases, operational improvements may be more appropriate than infrastructure improvements. Finally, TAM also recognizes that local agencies have the authority and are responsible for advancing transportation projects within their jurisdictions in accordance with local plans and policies and are required to balance the many needs of their communities.