

# City of Brisbane

## Agenda Report

TO: Honorable Mayor and City Council

FROM: Director of Public Works/City Engineer via City Manager

SUBJECT: Response to Grand Jury Report on Cell Towers

DATE: July 18, 2011

**City Council Goals:**

To promote intergovernmental opportunities that enhances services and/or reduces cost of operations and services to city residents. (#10)

**Purpose:**

The city is periodically required to respond to findings and recommendations from a civil grand jury report; the Superior Court now requires that our response be approved by the City Council at a public meeting.

**Recommendation:** Approve the enclosed DRAFT 7/19/11 response.

**Background:**

The proposed response was routed through the City Attorney, the Planning & Community Development Department and the Administrative Services Department.

**Discussion:** The Council may choose to revise the responses as they deem necessary and appropriate.

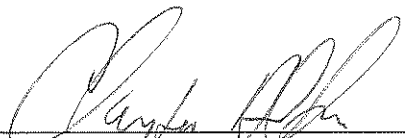
**Fiscal Impact:** None as a direct result of providing this response.

**Measure of Success:** A report accepted without further comment from the Grand Jury.

**Attachments:**

- 5/19/11 Grand Jury report transmittal
- 7/19/11 proposed response

  
\_\_\_\_\_  
Director of Public Works/City Engineer

  
\_\_\_\_\_  
City Manager



Superior Court of California, County of San Mateo  
Hall of Justice and Records  
400 County Center  
Redwood City, CA 94063-1655

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May 19, 2011

City Council  
City of Brisbane  
50 Park Place  
Brisbane, CA 94005

Re: Cell Towers: Public Opposition and Revenue Source

Dear Councilmembers:

The 2010-2011 Grand Jury filed a report on May 19, 2011 which contains findings and recommendations pertaining to your agency. Your agency must submit comments, within 90 days, to the Hon. Joseph E. Bergeron. Your agency's response is due no later than August 17, 2011. **Please note that the response should indicate that it was approved by your governing body at a public meeting.**

For all findings, your responding agency shall indicate one of the following:

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Additionally, as to each Grand Jury recommendation, your responding agency shall report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation therefore.

Please submit your responses in all of the following ways:

1. Responses to be placed on file with the Clerk of the Court by the Court Executive Office.
  - Prepare original on your agency's letterhead, indicate the date of the public meeting that your governing body approved the response address and mail to Judge Bergeron.

Hon. Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center; 2nd Floor  
Redwood City, CA 94063-1655.

2. Responses to be placed at the Grand Jury website.
  - Copy response and send by e-mail to: grandjury@sanmateocourt.org. (Insert agency name if it is not indicated at the top of your response.)
3. Responses to be placed with the clerk of your agency.
  - File a copy of the response directly with the clerk of your agency. Do not send this copy to the Court.

For up to 45 days after the end of the term, the foreperson and the foreperson's designees are available to clarify the recommendations of the report. To reach the foreperson, please call the Grand Jury Clerk at (650) 599-1200.

If you have any questions regarding these procedures, please do not hesitate to contact Brenda B. Carlson, Chief Deputy County Counsel, at (650) 363-4760.

Very truly yours,



John C. Fitton  
Court Executive Officer

JCF:ck  
Enclosure

cc: Hon. Joseph E. Bergeron  
Brenda B. Carlson

✓ Information Copy: City Manager



# **Cell Towers: Public Opposition and Revenue Source**

## **Issues**

Do cities and the County of San Mateo (the County) have effective governing policies and/or ordinances for cell tower installations that provide the public with a clear understanding of how applications are adjudicated?<sup>1</sup> Are cell tower installations a source of revenue for cities and the County?

## **Summary**

There are more than 450 cell tower installations in San Mateo County. Although people want reliable cell phone reception, community opposition to cell towers is common. The County and 18 of 20 cities reported public opposition to a cell tower application within the past 5 years.<sup>2</sup>

The County and 12 of 20 cities generate varying amounts of revenue from cell tower installations, primarily from the leasing of public lands.<sup>3</sup> Although it may not pose a large source of revenue, cities that are not already taking advantage of lease agreements as a steady revenue source should negotiate such agreements with service providers in the future. In addition, any new leases should require service providers to maintain existing structures, remove unused or obsolete equipment, and replace structures with newer low profile structures as they become available.

Improving information available to the public and providing clearer communications can improve public response to future cell tower installation applications.

## **Background**

While there is universal public demand for improved and more reliable cell phone transmissions, there exists a "not in my backyard" approach to having cell tower installations in close proximity to residences or commercial establishments. This statement is based on survey data and the number of incidences of public opposition recorded in local news articles or communications collected by members of the grand jury over a seven-month period in Fiscal Year 2010-2011. At least 8 of the 20 cities in San Mateo County had newspaper articles or communications of overt public opposition to cell tower applications during this timeframe.<sup>4</sup>

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<sup>1</sup> For purposes of this report, "cell towers" refers to any wireless communications facility or structure erected for purposes of transmission on either public or private property.

<sup>2</sup> Only two cities, Colma and East Palo Alto, did not report incidences of public opposition.

<sup>3</sup> Belmont, Brisbane, Burlingame, Foster City, Hillsborough, Menlo Park, Millbrae, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco.

<sup>4</sup> Daly City, Half Moon Bay, Menlo Park, Pacifica, Portola Valley, San Bruno, San Carlos, South San Francisco.

Public opposition occurs most often from individuals living in close proximity to a proposed cell tower site. Individuals or homeowner associations may make their own case to the city or form new groups for the purpose of galvanizing opposition. These new groups typically exist only until a final decision is rendered, making it impractical for the grand jury to interview representatives.

Data shows opposition is typically based on perceived health risks such as electromagnetic radiation. To date such concern is regarded as scientifically unproven and has not been a legal basis for permit denial in accordance with provisions in the (federal) Telecommunications Act of 1996.<sup>5</sup>

An appellate court ruling in 2009 supported the decision by the City of Palos Verdes Estates in Southern California to deny the installation of cell towers on the basis of aesthetics alone. Service providers had argued that there must be a compelling “substantive” reason to deny an application or it must be approved in favor of communication expansion. The appellate court ruled that aesthetics were a valid reason to deny a cell tower application, so long as the denial does not cause a significant gap in service coverage that cannot feasibly be addressed by alternatives.<sup>6</sup>

Federal law governs some cell tower decision-making authority. For example, each application by a service provider to install a cell tower must be considered on an individual basis, and a government entity cannot favor one telecommunications provider over another under protections provided by the Telecommunications Act of 1996.<sup>7</sup> Thus opposition is targeted to a specific application for cell tower installations.

Cell phone vendors compete for improved range, clarity of reception, and a reduction of dropped calls. Some cities report that cell tower installations have been increasing over the past five years to meet these demands.<sup>8</sup>

## Investigation

The 2011 San Mateo County Civil Grand Jury collected information about cell towers via a survey sent to city managers and planning directors, or their counterparts, in the County and each of the 20 cities (see Attachment).

Online research was conducted, including a review of excerpts of the Telecommunications Act of 1996 and the United States Court of Appeals, Ninth Circuit decision in the *Sprint PCS Assets PCS LP v. City of Palos Verdes Estates*.

Newspaper articles and communications from neighborhood groups regarding cell tower placement were collected and reviewed.

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<sup>5</sup> Peter M. Degnan et al, *The Telecommunications Act of 1996: §704 of the Act and Protections Afforded the Telecommunications Provider in the Facilities Siting Context*, May 18, 1999, pps. 7-8.

<sup>6</sup> No. 05-56106 – *Sprint PCS Assets PCS LP v. City of Palos Verdes Estates*, argued and submitted July 6, 2009 – October 14, 2009.

<sup>7</sup> Degnan et al., op. cit., p. 5.

<sup>8</sup> Belmont, Brisbane, Daly City, East Palo Alto, Foster City, Menlo Park, Portola Valley, Redwood City, San Carlos, South San Francisco.

## Discussion

The County and 15 of 20 cities in San Mateo County have ordinances in place related to cell tower installation.<sup>9</sup> These ordinances vary considerably in scope and comprehensiveness. Whether or not the County or a particular city has an ordinance governing cell tower installations does not seem to insulate it from public opposition. Service providers must make application to the County or cities whether or not there is an ordinance in place.

The County and 6 of 20 cities reported public opposition to cell tower applications occurred more frequently than once a year.<sup>10</sup> The primary opposition came from individuals living in close proximity to the proposed installation site. The most frequent reason cited for such opposition was public safety such as perceived health risks from electromagnetic radiation, although it is not a valid basis on which the County or city can deny a permit. Visual or aesthetic impacts, which are a valid issue upon which to base a decision regarding denial or modification of a cell tower application, were less frequently mentioned.<sup>11</sup>

In the County and 7 of 20 cities, service providers have withdrawn applications for cell tower installation due to public opposition.<sup>12</sup> In 2008 (referred to as the “2007 decision”), a service provider filed a lawsuit against the County because of a denied cell tower renewal application subsequent to an appeal filed by residents which overturned the initial approval.<sup>13</sup> There have been no incidences of litigation reported by cities because an application for cell tower installation was denied.

The County and 12 of 20 cities generate revenue from cell tower installations, primarily from the leasing of public lands.<sup>14</sup> In most cases, revenue is deposited to the general fund with no specific use indicated. The revenue is paid by service providers in addition to application or permit fees. Costs to file an application vary widely, with many cities requiring a deposit toward staff time.

Some cities do not require service providers to maintain cell towers and/or remove installations when they are no longer used, become obsolete, or the permit expires. These provisions are important because wireless technology continues to innovate and may in the future be replaced by devices significantly smaller with improved range.<sup>15</sup>

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<sup>9</sup> Belmont, Brisbane, Daly City, East Palo Alto, Hillsborough, Menlo Park, Millbrae, Pacifica, Portola Valley, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco, Woodside.

<sup>10</sup> Belmont, Daly City, Millbrae, Pacifica, Redwood City, San Carlos.

<sup>11</sup> *Sprint PCS Assets PCS LP v. City of Palos Verdes Estates*, op. cit.

<sup>12</sup> Belmont, Burlingame, Daly City, Hillsborough, Pacifica, San Bruno, San Carlos.

<sup>13</sup> Litigation pending ; case no. CV11 0056 *Sprint v. County of San Mateo et al*, amended complaint filed Jan. 6, 2011, U.S. District Court of Appeal, Northern District of CA.

<sup>14</sup> Belmont, Brisbane, Burlingame, Foster City, Hillsborough, Menlo Park, Millbrae, Redwood City, San Bruno, San Carlos, San Mateo, San Francisco.

<sup>15</sup> Svensson, Peter AP Technology Writer, *Wireless Advances Could Mean No More Cell Towers*, February 12, 2011, and Bloomberg Businessweek, *Alcatel-Lucent's Tiny Cell Tower*, February 28-March 6, 2011.

## Findings

The 2011 San Mateo County Civil Grand Jury finds that:

1. There is no apparent correlation between the existence of policies and/or ordinances regarding cell towers and the likelihood of public resistance to an application.
2. Locating applicable cell tower ordinances and policies on County and city websites is cumbersome.
3. Federal law precludes the use of perceived health risk as a basis for denying an application<sup>16</sup>; visual or aesthetic impacts are a valid reason to deny or modify an application, so long as the denial does not cause a significant gap in service coverage that cannot feasibly be addressed by alternatives.<sup>17</sup>
4. Some cities do not require service providers to maintain cell towers and/or remove installations when they are no longer used, become obsolete, or the permit expires (see Attachment).
5. The County and all cities have varying filing and processing fees for processing cell tower applications (see Attachment).
6. The County and 12 of 20 cities generate widely varying amounts of revenue through cell tower lease agreements (see Attachment).<sup>18</sup>
7. Five cities which have cell towers on public property are not charging service providers for land use<sup>19</sup>; three cities do not currently have cell towers located on public property.<sup>20</sup>

## Conclusions

The 2011 San Mateo County Civil Grand Jury concludes that:

The County and most cities have governing policies and/or ordinances that prescribe cell tower installations. Having an ordinance in place does not reduce the likelihood of public opposition to a cell tower application.

The County and cities need to balance public desire for improved wireless reception with local concerns regarding health, aesthetics, and property values while recognizing the rights of service providers under federal law.

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<sup>16</sup> Telecommunications Act of 1996.

<sup>17</sup> No. 05-56106 – *Sprint PCS Assets PCS LP v. City of Palos Verdes Estates*, op. cit.

<sup>18</sup> Belmont, Brisbane, Burlingame, Foster City, Hillsborough, Menlo Park, Millbrae, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco.

<sup>19</sup> Daly City, East Palo Alto, Half Moon Bay, Portola Valley, and Woodside have cell towers on public property and do not receive revenue for land use.

<sup>20</sup> Atherton, Colma, and Pacifica do not currently have cell towers located on public property.

The County and cities which have cell towers located on public property should establish lease agreements with service providers to generate revenue to the general fund.

The County and cities have varying cell tower application fees for recouping staff costs in processing these often complex applications and use permits.

There is no standard way of ensuring that cell towers are maintained or removed when they are no longer used or the permit expires. Cities which do not already have maintenance and removal provisions required of service providers may be responsible for cell tower maintenance and/or removal on public property.

Educating the public about applicable governmental regulations may help to alleviate some of the angst generated by cell tower installations.

## **Recommendations**

The 2011 San Mateo County Civil Grand Jury recommends to the County Board of Supervisors and the City Councils of all cities in San Mateo County the following:

1. Review and revise, if needed, the current fee structure to recoup staff costs for processing cell tower applications;
2. Negotiate lease agreements for future installations on public land that generate revenue or other tangible benefit to the community;
3. Add cell tower maintenance and removal provisions if they are not already included in existing ordinances and lease agreements;
4. Require that all new lease agreements contain a provision requiring service providers to install newer technology as it becomes commercially available to reduce the footprint of cell towers; and
5. Develop a webpage within County and city websites which clearly posts local ordinances, policies and procedures as well as federal regulations related to cell tower installations.

The Grand Jury further recommends the City Councils of Daly City, East Palo Alto, Half Moon Bay, Portola Valley, and Woodside pursue new or amended leases for existing cell towers on public property that are not currently generating revenue or other community benefits.



## Cell Tower Cities and County Survey Responses

	Number of cell towers on private property	Number of cell towers on public property	Does the city have codes or ordinances governing cell towers?	Does the city's code/ordinance cover both public and private property?	Is there a provision requiring service providers to maintain cell towers?	Is there a provision requiring service providers to remove cell towers if obsolete or a use permit ends?	Have you had applications withdrawn by service providers due to public resistance?	What is the current cost to file an application or permit for a cell tower structure?	Does the city generate revenue paid by service providers in addition to application or permit fees from cell towers installations?	If yes, what is the average annual revenue paid by service providers to the city that is generated from cell towers?	If yes, how is the revenue generated by cell towers used by the city?
Atherton	3	0	NO	N/A	N/A	NO	NO	Conditional use permit - Fee \$1,919 plus \$2,000 deposit - \$3,919 total	NO	N/A	N/A
Belmont	18	7	YES	YES	NO	YES	YES, Public reviews from 2007-2009, now waiting for withdrawal from applicant.	Fees: -complex project fee \$13,272 (deposit) -new construction engineering fee \$2,651 or \$1,704 (equipment change only) -fire fee for plan check \$268 -Environmental review fee \$547 -county recording fee \$50 -3rd party review of RF exposure study (deposit during review).	YES, There are leases for cell towers placed on public properties (parks, city hall, etc.	Unknown	Deposited to general fund for a variety of uses
Brisbane	15	3	YES	YES	NO	YES	NO	\$851 - administrative permit. \$2,698- planning commission use permit	YES, land lease	\$1,500/month	Deposited to general fund for a variety of uses
Burlingame	Unknown	Unknown	NO	N/A	NO	NO	YES, once (2010)	Depends upon level of review and cost of installation	YES, Only in instances where city owned property is leased for the installation	\$25,000 (based on one installation on public property)	Deposited to general fund for a variety of uses
Colma	4	0	NO	N/A	NO	YES	NO	Minor use permit \$905	NO	N/A	N/A
Daly City	45	15	YES	YES	YES	YES	YES, once (2010)	\$3,700	NO	N/A	N/A
EPA	Unknown	Unknown	YES	YES	YES	YES standard condition of approval	NO	Staff level-minor cell tower cost-\$667. Conditional use permit-major cell tower cost-\$3,662	NO	N/A	N/A
Foster City	26	6	NO	N/A	YES	NO	NO	Architectural review \$200. Use permit \$200 deposit. Applicant pays for cost to process	YES	The City receives approximately \$96,000 per year in revenue from the leasing of 4 sites for cell towers	Deposited to general fund for a variety of uses
HMB	2	1	NO	N/A	YES as a condition of CDP approval	YES as a condition of CDP approval	NO	\$1,300 deposit (actual cost determined by time required to complete processing)	NO	N/A	N/A
Hillsborough	0	11	YES	YES	YES	YES	YES, once (2006/07)	\$2,500	YES, if lease of public property is needed	The town collects \$162,120 annually for 7 sites, (\$1,950 monthly per site.)	Deposited to general fund for a variety of uses
Menlo Park	39	9	YES	NO, private property only	NO	NO	NO	Use permit deposit is \$1,500 subject to hourly billing rates for actual staff time expended toward the project	YES, Currently only one site in the Public ROW is subject to a lease agreement with the City.	\$2,500/month for the one cell site	Deposited to general fund for a variety of uses
Millbrae	14	5	YES	YES	YES	YES	NO	\$7,000 on private property; \$2,000 on property	YES, Leases for facilities on city property	\$15,000/year per facility on city property	Deposited to general fund for a variety of uses
Pacifica	40	0	YES	No, private property only	YES	YES	YES, on more than one occasion	\$3,750	NO	N/A	N/A
Portola Valley	5	5	YES	YES	YES	YES	NO	\$420/fee; \$7,500/Deposit	NO	N/A	N/A
Redwood City	Unknown	Unknown	YES	YES	YES	NO	NO	If property > 1/4 acre \$5k deposit; < 1/4 acre \$1k for Arch. Permit, \$2,830 for use permit	YES, One cell installation is on city land; a monthly or yearly lease is paid to the city	\$1k - \$1,666 per month	Deposited to general fund for a variety of uses
San Bruno	Unknown	Unknown	YES	YES	YES	YES	Yes, on more than one occasion	Use permit: \$2,145 Admin Approval: \$1,320	YES, Only if built on city owned parcel (e.g., water tank, park, etc.)	\$24,000 per year on average	Deposited to general fund for a variety of uses
San Carlos	9	3	YES	YES	YES	YES	YES, on more than one occasion	\$5,660.00	YES, Land lease of city property	\$2,000-\$3,000/mo \$24,000-\$36,000/yr.	Deposited to general fund for a variety of uses
San Mateo	Unknown	Unknown	YES not specific	YES	NO	NO	NO	Deposit amount of \$2,076; could ultimately be more based on staff time	YES, If in city parks or ROW on city equipment/poles, a lease is negotiated	The city is still negotiating its first lease	If in parks, used for Park & Rec purposes. If on city poles, used for Public Works purposes
SSF	Approx 30	Approx 8	YES	YES	YES	YES	NO	Use permit application - \$4,070	YES, Revenue ranges from \$1,500-\$3,000 per month per site	Approximately \$168,000/year	Deposited to general fund for a variety of uses
Woodside	8	9	YES	YES	YES	YES	NO	\$1,790 for CUP and Building permit fees	NO	N/A	N/A
County	71	42	YES	YES	YES	YES	YES, on more than one occasion	Varies - generally about \$7,813	YES, Administrative review by the Planning and Building Dept is occasionally required. The County (Real Property) also receives revenue from carriers located on County Property	\$600 to the Planning and Building Dept. Unknown amount to the County.	Revenue for Administrative reviews allocated to the Planning and building Dept. Revenue to the County unknown as to how it is allocated

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July 19, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center; 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

Subject: Response to 2010-2011 Grand Jury 5/19/11 report on Cell Towers: Public Opposition  
and Revenue Source

Dear Judge Bergeron,

Thank you for the opportunity to review and comment on the findings of the Grand Jury. This letter serves as the City of Brisbane's response to the findings and recommendations found therein. Please note this report was approved by the Brisbane City Council at its July 18, 2011 meeting.

### **Findings**

#### Grand Jury Finding 1

There is no apparent correlation between the existence of policies and/or ordinances regarding cell towers and the likelihood of public resistance to an application.

#### CITY RESPONSE TO FINDING 1

Based upon our own experience, we agree with the finding.

#### Grand Jury Finding 2

Locating applicable cell tower ordinances and policies on County and city websites is cumbersome.

#### CITY RESPONSE TO FINDING 2

We disagree with this finding as it relates to Brisbane. We think we have placed clearly identified links on the City website to both the City ordinances and to the federal law.

#### Grand Jury Finding 3

Federal law precludes the use of perceived health risk as a basis for denying an application; visual or aesthetic impacts are a valid reason to deny or modify an application, so long as the denial does not cause a significant gap in service coverage that cannot feasibly be addressed by alternatives.

## DRAFT

### CITY RESPONSE TO FINDING 3

Based upon our own understanding of federal law and decisions of the California courts, we agree with this finding.

### Grand Jury Finding 4

Some cities do not require service providers to maintain cell towers and/or remove installations when they are no longer used, become obsolete, or the permit expires.

### CITY RESPONSE TO FINDING 4

We cannot speak for the policies and ordinances of other cities but we have no reason to disagree with the information contained in the Attachment to the Grand Jury's report. The requirements of Brisbane are set forth in our response to your recommendations.

### Grand Jury Finding 5

The County and all cities have varying filing and processing fees for processing cell tower applications.

### CITY RESPONSE TO FINDING 5

Again, we cannot speak for the fees charged by the County and other cities but we have no reason to disagree with the information contained in the Attachment to the Grand Jury's report.

### Grand Jury Finding 6

The County and 12 of 20 cities generate widely varying amounts of revenue through cell tower applications.

### CITY RESPONSE TO FINDING 6

We have no knowledge of the revenue received by the County and other cities from cell tower leases but we have no reason to disagree with the information contained in the Attachment to the Grand Jury's report.

### Grand Jury Finding 7

Five cities which have cell towers on public property are not charging service providers for land use; three cities do not currently have cell towers located on public property.

## DRAFT

### CITY RESPONSE TO FINDING 7

We have no information concerning the practices of the cities mentioned in this finding but we have no reason to disagree with the finding.

### **Recommendations**

#### Grand Jury Recommendation 1

Review and revise, if needed, the current fee structure to recoup staff costs for processing cell tower applications.

### CITY RESPONSE TO RECOMMENDATION 1

The recommendation has been implemented. The City's planning fees include a Telecommunications Administrative Permit and a Public Utilities Use Permit to process cell tower applications; both of these fees were reviewed for consistency with the city's adopted cost recovery percentages and readopted by the City Council on June 27, 2011.

#### Grand Jury Recommendation 2

Negotiate lease agreements for future installations on public land that generate revenue or other tangible benefit to the community.

### CITY RESPONSE TO RECOMMENDATION 2

The recommendation has been implemented. All existing lease agreements include a monthly rental amount and an annual CPI adjustment clause. Any future agreements for installations on public land will be similarly structured.

#### Grand Jury Recommendation 3

Add cell tower maintenance and removal provisions if they are not already included in existing ordinances and lease agreements.

### CITY RESPONSE TO RECOMMENDATION 3

The recommendation has been implemented. The city's template for communications site lease agreements includes the following language:

- Lessee shall maintain Lessee's Facilities and the Premises in neat and safe condition in compliance with all applicable codes and governmental regulations.
- Upon the expiration, cancellation or termination of this Lease Agreement, Lessee shall surrender the Premises in good condition, less ordinary wear and tear; however, Lessee shall

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not be required to remove any foundation supports for Lessee's Facilities or conduits which have been installed by Lessee.

### Grand Jury Recommendation 4

Require that all new lease agreements contain a provision requiring service providers to install newer technology as it becomes commercially available to reduce the footprint of cell towers.

### CITY RESPONSE TO RECOMMENDATION 4

The recommendation requires further analysis. The City Attorney will review potential clauses to be included within future lease agreements; if legally binding language meeting the intent of the recommendation can be crafted, the new provision will be inserted into the template agreement within six (6) months. For existing agreements, any new language will be inserted at the next opportunity for renegotiation of the lease.

### Grand Jury Recommendation 5

Develop a web page within County and city websites which clearly posts local ordinances, policies and procedures as well as federal regulations related to cell tower installations.

### CITY RESPONSE TO RECOMMENDATION 5

The recommendation has been implemented. The city has a page for "cell towers" on the Building and Planning Department's home page, which includes links to the city's relevant municipal code section, the city's use permit application for telecommunication facilities, and the federal Telecommunications Act of 1996.

Please call me at (415) 508-2131 if there are any questions regarding this matter.

Very truly yours,

Randy L. Breault, P.E.  
Director of Public Works/City Engineer

Cc: Brisbane City Clerk  
Grand Jury website (sent via email to [grandjury@sanmateocourt.org](mailto:grandjury@sanmateocourt.org) )