



MONO COUNTY GRAND JURY
2020-2021

FINAL REPORT
Submitted July 30, 2021

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COUNTY OF MONO – SUPERIOR COURT GRAND JURY

Juliana Olinka Jones
Foreperson 2020-2021 Mono
County Grand Jury
Mammoth Lakes, CA 93546

July 30, 2021

The Honorable Judge Mark Magit
Mono County Superior Court
P.O. Box 1037
Mammoth Lakes, CA, 93546

Dear Judge Magit and Citizens of Mono County,

The 2020-2021 Mono County Civil Grand Jury completed its year of service as of July 31, 2021. We respectfully submit the following Consolidated Final Grand Jury Report of 2020-2021.

During the year of our tenure, we received three formal citizen complaints. A report based on the first complaint is included herein – “Town of Mammoth Lakes Management of Snow Removal on Easements.” The second complaint was not within our purview and the third arrived too late in the term to be addressed and will be forwarded to next year’s grand jury.

The grand jury completed two investigations related to issues of importance to the county. As a result, we prepared and submitted two reports – “Workforce Housing Crisis” and “Fiber Internet Connection as Essential Infrastructure in Mono County.” In addition, we reviewed required government responses to the previous grand jury’s report and prepared a “Compliance and Continuity” report. Finally, the jury undertook the updating and rewrite of the Mono County Grand Jury Handbook.

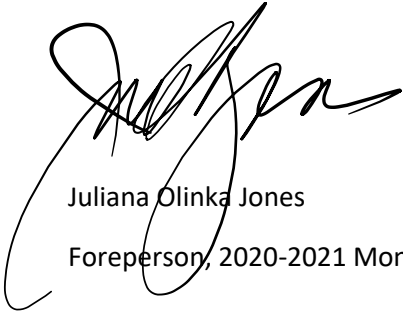
It has been a pleasure to work with an outstanding group of fellow citizens, including Foreperson Pro Tem Helen Shepherd and Secretary Kate Page. On behalf of this year’s grand jury, we extend our gratitude to District Attorney Tim Kendall for his continued support and legal advice, County Counsel Stacey Simon for her support, as well as Court Executive Officer Lester Perpall and Executive Assistant & Deputy Jury Commissioner Danielle Bauman for being available at all hours to respond our requests. A special note of thanks to Mono County Superior Court IT Systems Administrator Jim Lewey for his patience, support, and guidance with technology issues throughout our term.

We began this year in masks, doing most of our work via ZOOM. We were finally able to conduct in-person meetings beginning in May after all grand jury members had been vaccinated. We learned a great deal during that time - how to juggle the attendant challenges of no in-person meetings and made some recommendations to the Court that were implemented. Moving forward, each grand jury during its year of service will have access to its own private domain to enhance security of its documents in addition to a dedicated Zoom account. In addition, with gratitude to the Mono County Board of Supervisors, each grand juror will have a dedicated laptop to use during their term of office exclusively for grand jury work.

We thank Judge Magit for the opportunity to serve our County. Moving forward, we encourage our fellow Mono County citizens to volunteer to serve on future grand juries. It is a gratifying, worthwhile and educational

experience. It is our hope that serving our fellow citizens in this capacity will help promote and ensure high standards of government within Mono County and the Town of Mammoth Lakes.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'Juliana Olinka Jones', with a large, stylized loop at the beginning.

Juliana Olinka Jones

Foreperson, 2020-2021 Mono County Civil Grand Jury

2020-2021 MONO COUNTY GRAND JURORS

Juliana Olinka-Jones

Foreperson

Mammoth Lakes

Helen Shepherd

Assistant Foreperson

Mammoth Lakes

Katherine Page

Secretary

Mammoth Lakes

Ananda Ybarra

Mammoth Lakes

Kristen Schipke

Crowley Lake

Louis Klein

Crowley Lake

Lynda Wu

Mammoth Lakes

Philip Higerd

Mammoth Lakes

Richard Sanfilippo

Mammoth Lakes

Victoria Mobley

Mammoth Lakes

GRAND JURY ADVISORS

Mark Magit

Presiding Judge, Superior Court, Mono County

Lester Perpall

Executive Officer, Superior Court, Mono County

Tim Kendall

District Attorney, Mono County

Stacey Simon

County Counsel, Mono County

Danielle Bauman

Executive Assistant, Superior Court, Mono County

Jim Lewey

IT Systems Engineer, Superior Court, Mono County

THE GRAND JURY SYSTEM

Shrouded in secrecy, the functions of a Grand Jury are not widely known. The following summary describes what a Grand Jury is and does:

The Grand Jury system dates back to 12th century England during the reign of Henry II. Twelve “good and lawful men” were assembled in each village to investigate anyone suspected of crimes. The jurors passed judgment based on what they themselves know about a defendant and the circumstances of the case. It was believed that neighbors and associates were the most competent to render a fair verdict. By the end of the 17th century, the principle that jurors must reach a verdict solely on the basis of evidence was established, and that practice continues today. Although California Supreme Court decisions have curtailed the historical criminal indictment function, the Grand Jury still serves as an inquisitorial and investigative body functioning as a “watchdog” over regional government.

The Mono County Grand Jury, as a civil Grand Jury, is not charged with the responsibility for criminal indictments except in the case of elected or appointed county officials. Its primary function is the examination of county and city government, including special legislative districts such as community service districts and fire protection districts. The Grand Jury seeks to ensure that government is not only honest, efficient and effective, but also conducted in the best interest of the citizenry. It reviews and evaluates procedures, methods and systems used by governmental agencies to determine compliance with their own objectives and to ensure that government lives up to its responsibilities, qualifications and the selection process of a Grand Jury are set forth in California Penal Code Section 888 et seq.

The Grand Jury responds to citizen complaints and investigates alleged deficiencies or improprieties in government. In addition, it investigates the county’s finances, facilities and programs. The Grand Jury cannot investigate disputes between private citizens or matters under litigation. Jurors are sworn to secrecy, and all citizen complaints are treated in strict confidence.

The Mono County Grand Jury is a volunteer group of 11 citizens from all walks of life throughout the county. Grand jurors serve a year-long term beginning July 1, and the term limit is two consecutive years. Lawfully, the Grand Jury can act only as an entity. No individual grand juror, acting alone, has any power or authority. Meetings of the Grand Jury are not open to the public. By law, all matters discussed by the Grand Jury and votes taken are kept confidential until the end of term.

One of the major accomplishments of a Grand Jury is assembling and publishing its Final Report. This document is the product of concentrated group effort and contains recommendations for improving various aspects of governmental operations. When it is completed, the Final Report is submitted to the presiding judge of the Superior Court. After release by the court, it is directed first to county department heads for review, then to the communications media. The Final Report is a matter of public record, kept on file at the court clerk’s office. It is also available online at:

<http://www.mono.courts.ca.gov/>.



MONO COUNTY GRAND JURY
2020-2021

**TOWN OF MAMMOTH LAKES MANAGEMENT
OF SNOW REMOVAL ON EASEMENTS**

FINAL REPORT
Submitted July 30, 2021


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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONO

IN RE: 2020-2021 Grand Jury	GENERAL ORDER
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I certify that the 2020-2021 Grand Jury Final Report, Town of Mammoth Lakes Management of Snow Removal on Easements, pursuant to California Penal Code § 933 (a), complies with Title Four of the California Penal Code and direct the County Clerk to accept and file the final report as a public document.

Dated this 3rd day of August 2021.



MARK MAGIT
Presiding Judge of the Superior Court

TOWN OF MAMMOTH LAKES MANAGEMENT OF SNOW REMOVAL ON EASEMENTS

FINAL REPORT

July 30, 2021

SUMMARY

The 2020-2021 Mono County Grand Jury received a citizen's complaint regarding a dispute between a local homeowners association (HOA) and the Town of Mammoth Lakes (TOML). This dispute relates to a flooding situation that occurred when the capacity of a town-owned easement was exceeded in the winter of 2016/2017.

Resolution of this specific complaint is not within the jurisdiction of the Mono County Grand Jury. However it raised a more general question the Grand Jury can address. This issue relates to how the TOML manages easements for which it is responsible that affect private property specifically related to snow removal/storage and its resulting run-off.

BACKGROUND

In the winter of 2016/2017 and again in 2017/2018 flooding of private residences in a long-established subdivision was avoided due to quick response and cooperation among homeowners, friends, and volunteers from the Mammoth Lakes Fire Department. Those involved shoveled snow so that water from melting snow could drain without damaging houses. In subsequent winters the homeowners either shoveled the snow themselves or paid to have the area professionally shoveled rather than run the risk of damage to their property.

The claimant feels that the Town of Mammoth Lakes has not adequately addressed their concerns regarding past and potential flooding in this area and has not accepted responsibility for maintaining a TOML easement in such a way as to prevent flooding in the subdivision. The complainant maintains that there was no flooding in the area prior to a parking lot reconstruction at the Mammoth Elementary School and the addition of sidewalks in the area that occurred in the summer of 2016. A committee was formed that was made up of representatives from TOML and MUSD to oversee both projects.

A flooding situation can be predicted to occur in this location during any given Mammoth winter depending upon the amount of snowfall. This has created an ongoing problem in the adjacent neighborhood. While this dispute has remained unresolved for five (5) years now with no resolution in sight, it calls attention to the larger issue of snow removal placement, its subsequent snowmelt run-off and rain on snow run-off relative to TOML easements.

A construction project whose purpose was "to reconfigure the entrance, drop off, and parking area at Mammoth Elementary School" occurred in the summer of 2016. TOML provided

“construction management services” for the project and was involved in the bidding process. The same contractor was used to complete both projects.

METHODOLOGY

The Mono County Grand Jury interviewed a number of people including the complainant, Town of Mammoth Lakes staff and Mammoth Unified school district staff. The Grand Jury also viewed reports, documents, including a public works staff report of 2018 written by the Public Works Director and the Engineering Manager, a copy of the Notice of Exemption - categorical exemption §15301(c) and public meetings concerning this event. Not all documents requested from the town were provided.

DISCUSSION

After the school year ended in 2016, Mammoth Unified School District began a construction project at the Elementary school parking lot to create a horseshoe and bus lane to organize traffic and promote safety. The project was funded by MUSD. At the same time, the TOML began a construction project to build sidewalks on Meridian Boulevard, funded by monies from Safe Routes for Schools. The two projects were “married” per town staff and the same construction company was hired to do both after a bidding process managed by both MUSD and TOML.

A Public Works Document provided to the Grand Jury stated that physical improvements made during the 2016 construction project did include minor revisions to the drainage along the border between the Trails subdivision and Mammoth Elementary School, which added capacity to the drainage system in the area. No drainage study was conducted, rather a waiver was issued by TOML.

Problems of snowmelt runoff and rain on snow runoff arose in the subdivision the winter immediately following the construction. Homeowners took it upon themselves to remove snow from the easement to prevent damage to homes. This action prevented damages, but did not fix the problem which has the potential to reoccur whenever there is a big snow year or whenever the conditions of rain on snow occur. The TOML indicated that since there were no damage claims to property made, there is no problem. The issue of the existence of a damage claim is in dispute.

The TOML has a responsibility to its residents to hold itself to the same standard it holds private companies to when it comes to easements. In fact, merely the appearance of taking advantage of its position as enforcer of standards could be construed as preferential treatment and does not stand up to scrutiny. In this case the TOML gave two projects involving reconfiguring an existing parking lot and adding sidewalks a categorical exemption from further studies, in particular a drainage study, before construction began. This was a project where TOML was providing “construction management services” for the project. Not only can this be viewed as taking advantage of its position, it leaves the Town open to questions of potential future liability.

FINDINGS

F1. Flooding in a long-established subdivision in winter 2016/2017 in an easement deeded to TOML was avoided when frustrated homeowners and volunteers coordinated to shovel snow to successfully prevent snowmelt and rain-on-snow runoff from damaging a number of homes. The project that Mammoth Unified School managed in coordination with the TOML was not required to complete a drainage study, nor was a drainage study completed for the sidewalk project managed by TOML. Despite ongoing discussion and negotiation with TOML management there is no clear path to resolving the issue leaving the homeowners concerned that the situation can and will arise again through no fault of their own.

RECOMMENDATIONS

- R1. The Mono County Grand Jury recommends that the Town Council of Mammoth Lakes establish a policy that the Town prepare a drainage study for any project that the Town is involved in and which might alter existing drainage near public easements just like they require of any developer or contractor. The Town should not claim a “categorical exemption” for any project of their own that involves the possibility of unexpected drainage consequences as in this case. Such policy to be adopted and codified no later than December 31, 2021.
- R2. The Grand Jury recommends The Town Council of Mammoth Lakes direct town management to establish a clear policy for managing Town-owned easements and codify it by December 31, 2021.

REQUEST FOR RESPONSES

The following responses are required pursuant to Penal Code §933 and §933.05:

From the following governing body:

TOWN OF MAMMOTH LAKES TOWN COUNCIL - Finding #1 and Recommendation #1 and #2

RECUSAL DISCLAIMER

Please note that two members of the Grand Jury were recused from all aspects of the investigation, discussion and report due to conflict of interest.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.



MONO COUNTY GRAND JURY
2020-2021

COMPLIANCE AND CONTINUITY
FINAL REPORT
Submitted March 25, 2021

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONO

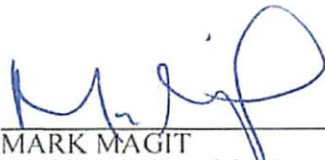
IN RE:

2020-2021 Grand Jury

GENERAL ORDER

I certify that the 2020-2021 Grand Jury Compliance and Continuity Report, pursuant to California Penal Code § 933 (a), complies with Title Four of the California Penal Code and direct the County Clerk to accept and file the final report as a public document.

Dated this 9th day of April 2021.



MARK MAGIT
Presiding Judge of the Superior Court

GENERAL ORDER

MONO COUNTY COMPLIANCE AND CONTINUITY REPORT:

2020-2021 GRAND JURY

SUMMARY

The 2020-2021 Mono County Civil Grand Jury reviewed the responses to the two investigative reports and the four continuity reports issued by the 2019-2020 Mono County Grand Jury, to assess compliance with the California Penal Code. The complete text of these reports can be accessed in the Mono County Grand Jury 2019-2020 Final Report, issued on July 20, 2020, at the Mono County website <https://www.mono.courts.ca.gov/generalinfo/jury-grandjury.htm>.

BACKGROUND

California Penal Code Section 933(a) requires the grand jury to “submit to the presiding judge of the superior court a final report of its Findings and Recommendations that pertain to county government matters during the fiscal or calendar year.” Government bodies or department officials are required to respond to the Findings and Recommendations directed to them within 90 days of the release of a grand jury’s report. Elected County officials are required to respond within 60 days. (PC §933(c)).

Penal Code Section §933.05 Responses to Grand Jury Reports

- a. For the purposes of subdivision(b) of Section 933, as to each grand jury finding, the responding person or entity 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.
- b. For the purposes of subdivision(b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - 1. The Recommendation has been implemented, with a summary of the action taken;
 - 2. It will be implemented, with a timeframe for implementation being provided;
 - 3. It requires further analysis, with an explanation and the scope of the analysis and a timeframe for response being provided for not more than six months from the release of the report; or
 - 4. It will not be implemented because it is not warranted or is not reasonable, with an explanation being provided.

The 2019-2020 Mono County Civil Grand Jury issued the following reports in its final report dated July 20, 2020:

Mono County Jail Final Report

Continuity Committee Solid Waste Report

Continuity Committee MCOE Report

Continuity Committee Mono County Jail Report

Continuity Committee Hilton Creek Report

Emergency Preparedness Final Report

This Compliance and Continuity Report focuses only on the Penal Code requirements for responding to the Recommendations made by the 2019-2020 Civil Grand Jury. The two reports and the continuity reports contained recommendations, of which five required responses from a total of four persons, agencies, or departments. Two recommendations required responses from two different agencies. The charts below will indicate whether responses were received in a timely manner. Three entities did not respond within the Penal Code stipulated timeline.

METHODOLOGY

The 2020-2021 Civil Grand Jury evaluated responses to the 2019-2020 Civil Grand Jury Recommendations to ensure compliance with the governing sections of the Penal Code (PC §933.05(b)). The following criteria were considered:

1. If a response indicated that a Recommendation had been implemented, did it include a summary of what was done?
2. If a response indicated that a Recommendation would be implemented, did it include a summary and timeframe for what would be done?
3. If a response indicated that a Recommendation required further analysis or study, did it include an explanation of the scope, parameters, and timeframe of the proposed analysis or study?
4. If a response indicated that a Recommendation would not be implemented because it was unwarranted or unreasonable, did the respondent include a reasoned explanation supporting that position?

DISCUSSION

The following tables offer a summary of the responses provided to the 2019-2020 Civil Grand Jury's reports, as assessed by the 2020-2021 Civil Grand Jury. In some cases, the responses contained additional details that are not included in the table.

MONO COUNTY JAIL FINAL REPORT

The 2019-2020 Grand Jury was unable to conduct a visit to Mono County Jail as a result of Covid-19. They reported on the steps being made to keep prisoners and staff safe. There were no recommendations for action. The 2020-2021 Grand Jury Continuity Committee did inquire as to the progress of building the proposed new jail. The jail project had been put on hold due to the building of the Mono County Office with completion in early fall of 2020. Mono County Board of Supervisors responded that they are now going forward with planning for the construction of a new jail. The recommendation and response are noted in the chart below. The complete response submitted for this report appears on the Mono County Court website at:

https://www.mono.courts.ca.gov/documents/mono/Mono_County_Sheriffs_Office_Response_to_2020_Grand_Jury_Report.pdf?1614119958337

MONO COUNTY JAIL FINAL REPORT				
R1: The 2019-2020 Grand Jury finds that Mono County continues to maintain a well-run jail facility and has responded to the Coronavirus pandemic in an appropriate manner				
Responding Agency	Recommendation	Response Date: Timely or Tardy	Content Responsive to Penal Code	Summary of Reply and 2020-2021 Civil Grand Jury Analysis
Mono County Sheriff	R1	Due 9/26/2020 Rcvd 09/03/2020 Timely	Yes	Sheriff agrees to the finding and appreciates the positive remark.

CONTINUITY COMMITTEE SOLID WASTE REPORT

The 2019-2020 Grand Jury reviewed the status of the entities' efforts to comply with recommendations of the 2018-2019 Grand Jury. The analysis concluded that there were no items requiring further investigation; However the 2019-2020 Grand Jury did make recommendations regarding continual progress to ensure that future solid waste needs are being addressed. The recommendations and responses are noted in the chart below. The complete responses submitted for this report by the Town of Mammoth Lakes appear on the Mono County Courts website at: https://www.mono.courts.ca.gov/documents/mono/Town_of_Mammoth_Lakes_Grand_Jury_Response_2020.pdf?1614120304693 The complete responses submitted for this report by the Board of Supervisors is at: https://www.mono.courts.ca.gov/documents/mono/Town_of_Mammoth_Lakes_Grand_Jury_Response_2020.pdf?1614120304693

CONTINUITY COMMITTEE SOLID WASTE REPORT				
R1: The 2019-2020 Grand Jury recommends ToML continue to make progress in planning and researching innovative solid waste solutions which will benefit residents and the environment after the Benton Crossing Landfill closure and beyond. The delay in coming to a beneficial agreement with Mammoth Disposal is concerning but understandable considering what is at stake and recent difficult circumstances.				
R2: The 2019-2020 Grand Jury recommends that Mono County continue to move forward with planning for the Benton Crossing Landfill closure. We also recommend they continue to collaborate with other regional entities as they develop the infrastructure and expertise needed for Mono County to successfully move to a future transition without Benton Crossing Landfill.				
Responding Entity	Recommendation	Response Date: Timely, Tardy, or Late	Content Responsive to Penal Code	Summary of Reply and 2020-2021 Civil Grand Jury Analysis

Town of Mammoth Lakes	R1	Due: 10/18/2020 Rcvd: 10/07/20 Timely	Yes	The Town adopted a 20-year franchise agreement with Mammoth Disposal on September 2, 2020, effective October 1, 2020 and is continuing to make progress on resolving the landfill replacement.
Mono County Board of Supervisors	R2	Due 10/18//2020 Rcvd: 2/2/2021 Late	No - Needs Timeline	The Board of Supervisors is taking appropriate steps for replacement of infrastructure and systems to follow the closure of Benton Crossing Landfill.

CONTINUITY COMMITTEE MCOE REPORT

The 2019-2020 Grand Jury Continuity Committee asked MCOE (Mono County Office of Education) for an update on their progress in meeting recommendations made by the 2018-2019 Grand Jury that were still in progress. The 2019-2020 Grand Jury found the MCOE had complied with R1 and R2 but reinstated R3. The recommendation and response is noted in the chart below. The complete responses submitted for this report appear on the Grand Jury website at:

https://www.mono.courts.ca.gov/documents/mono/MCOE_Response_to_2020_Grand_Jury_Report.pdf?1614119394645

CONTINUITY COMMITTEE MCOE REPORT				
R3: The 2019-2020 Grand Jury recommends that while MCOE has stated the Charter School brings in additional State funding to the benefit of Mono County students, they should also provide a comparison of the Charter School expenses which offset revenues from the State generated by the Charter School. And, provide a method for that information to be available to Mono County Residents.				
Responding Agency	Recommendation	Response Date: Timely, Tardy, or Late	Content Responsive to Penal Code	Summary of Reply and 2020-2021 Civil Grand Jury Analysis
Mono County Superintendent of Schools	R3	Due: 10/18/2020 Rcvd: 02/05/21 Late	No Did not provide a clear comparison of the Charter School expenses which offset revenues generated by the Charter School.	Response did not address R3 as per the 2020 GJ Report.

EMERGENCY PREPAREDNESS FINAL REPORT

The 2019-2020 Grand Jury began to conduct an investigation of the Mono County and ToML emergency preparedness but discontinued the investigation in March as the County found itself responding to the emergency of the Covid-19 pandemic. The County suggested that this would be better done in the future. As the pandemic continued and wildfires also occurred, the 2020-2021 Grand Jury felt that follow-up was necessary, but did not feel the time was right for a full investigation. Finding 1 regarding communication systems was previously noted in the 2018-2019 Grand Jury Jail Report. The recommendations and responses are noted in the chart below. The complete responses are available at the website locations noted above.

EMERGENCY PREPAREDNESS FINAL REPORT				
R1: The 2019-2020 Grand Jury recommends that Mono County and the ToML continue to support Mono County's participation in the FirstNet communications system and/or any appropriate improvements to the system as resources allow. The Grand Jury further recommends that these improvements be made within the scope of a unified plan for the entire County.				
R2: The 2019-2020 Grand Jury recommends that Mono County and the ToML continue to support wildfire mitigation efforts in the areas surrounding Mammoth Lakes and in the County as a whole.				
Responding Agency	Recommendation	Response Date: Timely, Tardy, or Late	Content Responsive to Penal Code	Summary of Reply and 2020-2021 Civil Grand Jury Analysis
Mono County Board of Supervisors	R1	Due: 10/18/2020 Rcvd: 02-02-21 Late	Yes, includes timeline	Mono County Information Technology Department is driving the effort to improve the communications system in Mono County with all stakeholders involved. Substantive improvements will take several years to complete and likely not to be fully operational until 2025.
Town of Mammoth Lakes	R1	Due: 10/18/2020 Rcvd: 10-07-20 Timely	No - Response should include timeline for completion of the process - Penal Code §933.05(c)	The Town is currently in discussions with Mono County and Mammoth Lakes Fire District regarding upgrading the existing radio system.
Mono County Board of Supervisors	R2	Due: 10/18/2020 No response	No	

Town of Mammoth Lakes	R2	Due: 10/18/2020 Rcvd: 10-07-20 Timely	Yes	The Town has Emergency Plans on file and recently received a grant for wildfire mitigation.
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CONCLUSION

The Grand Jury appreciates all departments and agencies that replied to the 2019-2020 Grand Jury's recommendations. It is important for responses to be complete and responsive so the public can know when to expect actions to be taken to address highlighted issues.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section §929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

A copy of this report will be sent to the following:

Mono County Sheriff

Mono County Superintendent of Schools

Mono County Board of Supervisors

Town of Mammoth Lakes, Town Council



MONO COUNTY GRAND JURY
2020-2021

WORKFORCE HOUSING CRISIS
FINAL REPORT
Submitted June 14, 2021


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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONO

IN RE: 2020-2021 Grand Jury	GENERAL ORDER
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I certify that the 2020-2021 Grand Jury Workforce Housing Crisis Final Report, pursuant to California Penal Code § 933 (a), complies with Title Four of the California Penal Code and direct the County Clerk to accept and file the final report as a public document.

Dated this 17th day of JUNE 2021.



MARK MAGIT
Presiding Judge of the Superior Court

WORKFORCE HOUSING CRISIS

FINAL REPORT

June 14, 2021

SUMMARY

Local housing for Mono County and Town of Mammoth Lakes workforce is at a crisis level and needs more committed attention and financial resources from the local governing bodies. Mono County and the Town of Mammoth Lakes have recently reported to the State of California on their progress in improving housing availability as directed by State mandated requirements. These plans tend to emphasize ongoing activity without actually producing results. For better outcomes, the Mono County Grand Jury recommends that more specificity be introduced into the plans, that dedicated responsible parties be identified, and that innovations be investigated and implemented now. The various communities of Mono County need to become more involved in order to get community buy-in for adding workforce housing in their communities. Finally, the cost of actually accomplishing these goals needs to be addressed with plans from both County and Town for identifying and acquiring dedicated funding.

BACKGROUND

Need for Workforce Housing

The need for more housing has been evident in Mono County and the Town of Mammoth Lakes for a long time. Beginning in 1969, California required that all local governments plan to meet the housing needs of everyone in the community. Over the decades since then the various Mono County Boards of Supervisors and Mammoth Lakes Town Councils have created a significant number of studies and plans to improve the supply of housing but have not been successful in meeting housing needs. As the County and Town populations have grown, the emphasis on providing workforce housing has not grown at the same pace. The problem continues due to insufficient funding, lack of available private land and lack of innovative solutions. In addition, the recent evolution of Airbnb and similar entities have created more incentives for property owners to turn their units into short term rentals (STR) instead of providing long term rental housing that is needed by locals.

The biggest challenge in developing housing is at the low-income levels of the workforce as housing prices have increased at a faster pace than income. The State of California has for decades continued to study the problem. As recently as September of 2018, the state established requirements for municipalities to increase housing using a matrix of income levels based on household size and the percentage of the average income of the region. Regions within California currently have until 2027 to achieve the goals set for them by the state. Despite the long lead time given by the state, it is clear that the need for housing in Mono County and

Mammoth Lakes is more immediate (The Sheet, March 20, 2021, pg. 2 “[Good Housekeeping](#)”) and needs to be aggressively addressed.

High Cost and Scarcity of Housing

Housing costs have been influenced by non-residents who are drawn to the area. They are willing and able to pay top dollar for second homes that they can visit occasionally. The 2020 COVID-19 pandemic has exacerbated the problem since employers are allowing more workers to work from remote locations - a trend that is likely to continue in some form. Anecdotally, these remote workers have been adding to the number of renters and buyers in both the county and town viewing the Eastern Sierra as an ideal alternative to big city life. In addition, non-locals have been buying housing at an alarming rate with the intent of turning it into income-producing nightly rentals. The result of this is more local residents are pushed out of the market. This continues to decrease available housing for full-time residents.

The median price of condos sold in the county in 2016 was \$299,750 but went to \$450,000 in 2019 and continues to escalate. The median price of existing single family homes in Mono County was \$699,750 as of September 2019, the tenth most expensive county in California and 12.4% higher than the previous year (Federal Census). The current inventory of available homes is extremely low. As an example, historical February inventory of single family homes and condos combined in the town was approximately 150 units whereas only 28 properties were listed mid-month February 2021 per a local real estate newsletter.

Below Market Rate Housing

Not only is housing scarce but workers at many different income levels find what is available to be unaffordable. Generally, the state expects that a worker can afford to pay up to 30% of their income on housing. The area median household income in 2019 was \$62,260 in Mono County and \$59,620 in the Town of Mammoth Lakes compared to \$80,440 in the State of California. More importantly, the median income of individual full-time, year round workers in the Town of Mammoth Lakes was only \$34,341 for female workers and \$42,933 for male workers per the United State Census bureau ([Census - Geography Profile](#)).

Mammoth Lakes Housing, Inc. (MLHI) maintains a waiting list of applicants for “low-income housing” which as of May 1, 2021, stands at 108 households. This encompasses 341 individuals of whose gross annual income is below 100% of the Area Median Income.

AMI - Area Median Income levels are defined in the State as:

- **Extremely low income:** 0-30% of AMI.
- **Very low income:** 30% to 50% of AMI.
- **Lower income:** 50% to 80% of AMI; the term may also be used to mean 0% to 80% of AMI.
- **Moderate income:** 80% to 120% of AMI.

Some workers in the county resort to commuting to Bishop in Inyo County to find affordable units. Others have given up and moved out of the area completely. Government funding support is necessary to provide “below market rate” (BMR) units, whether for rent or ownership. BMR

housing is being addressed by the state by review of the AMI income levels above.
(<https://www.monocounty.ca.gov/housing-authority>)

General Fund allocations for housing in both Mono County and the Town of Mammoth Lakes are relatively small compared to the costs of BMR programs. Although there are portions of various taxes that are legally dedicated for funding other functions of the government, housing is still a discretionary allocation by the town council when considering the annual budget; the county board of supervisors has a specific allocation.

Currently only 0.85% of the 13% Transient Occupancy Tax (TOT) collected in the Town of Mammoth Lakes is allocated to support housing. Mono County and Town of Mammoth Lakes apply to the state and federal government for additional funding through grants. However, the probability of acquiring grants is not guaranteed as virtually every county and city in California is competing for the same funds. The Town of Mammoth Lakes is also applying for grants through non-profits like Mammoth Lakes Housing, Inc.

Workers with Above Median Income

There are housing shortages at the professional level in addition to those at the lower income levels. However, this grand jury report focuses on housing for the medium and lower income workforce.

Unincorporated Mono County's situation and the Town's situation vary significantly and are treated separately in this report.

METHODOLOGY

- The Grand Jury reviewed numerous documents, a list of which can be found at the back of this report in Appendix A.
- Grand Jury members also conducted interviews with 15 officials or staff of Mono County, the Town of Mammoth Lakes, and Mammoth Lakes Housing, Inc.
- Websites for the County Board of Supervisors and the Town of Mammoth Lakes Town Council were reviewed for information relevant to housing that was discussed during the course of this fiscal year.
- Various County Board of Supervisors, Mammoth Lakes Town Council and Mammoth Lakes Housing meetings were reviewed.

DISCUSSION

State Government Requirements for Housing Element in General Plans

The State of California requires all communities to develop a General Plan with a Housing Element within the General Plan. The county's and town's current respective housing elements were established in 2019 and extend through 2027. The state has provided Mono County with a

Regional Housing Needs Determination (RHND) that specifies the number of housing units to be provided for workers at various income levels by 2027. Although the target for compliance is 2027, the housing crisis is now.

An annual report evaluating progress on the status of the Regional Housing Needs Determination (RHND) goals is due to the State's Housing and Community Development (HCD) Department on April 1 of each year. The county and the Town of Mammoth Lakes each completed their report by April 1, 2021 as required by the state.

COUNTY OF MONO

County General Plan Housing Element

The Mono County General Plan establishes policies to guide decisions on future growth, development and conservation of natural resources in the unincorporated areas of the county. Regional Planning Advisory Committees (RPACs) have been established in the various communities within the county. The housing element of the county's current general plan was developed with input from the community, as well as the Board of Supervisors. Goals were prioritized. The four main goals are:

Goal 1: Increase overall housing supply, consistent with county's rural character

Goal 2: Increase the supply of community housing

Goal 3: Retain existing community housing

Goal 4: Ensure all other needs related to housing are met

Each of the goals has been broken down into action plans with responsibilities and timelines. Land availability has been addressed and found to be adequate to accomplish the goals.

Goal 1 of the Plan is actually two separate goals: the first of increasing the overall housing supply can be in conflict with the latter goal of keeping communities consistent with the county's rural character.

Community housing as mentioned in goal 2 includes workforce housing. Some of that housing must be more affordable than the current mix of housing in a community. To make it affordable, the housing units need to be smaller and possibly attached to other units, i.e. multiple family residence (MFR) housing. Many communities have zones for MFR housing on which nothing but single family residences (SFRs) have been built. Another possibility for affordable housing is building accessory dwelling units (ADU) or "tiny houses."

One section of the housing element estimates that the unmet demand for rental units in the unincorporated area of the county is from 50 to 100 units. In addition, it reports that approximately 100 people left the area when they couldn't find housing or their rentals were converted to seasonal housing.

Antelope Valley, Benton/Hammil, Bridgeport Valley, Chalfant, June Lake, Long Valley, Mono Basin, Paradise and Wheeler Crest each have a Regional Planning Advisory Committee (RPAC) that supports the county housing element. The stated purpose of an RPAC, per the Mono County website (<https://www.monocounty.ca.gov/rpac>), is to advise the Mono County Board of

Supervisors, Planning Commission, and Planning Division on the development, review, implementation and update of the Mono County General Plan and associated Area / Community Plans.

The planning areas of June Lake and Mono Basin have separately published area or community plans, which are incorporated into the land use element of the General Plan.

The County Board of Supervisors is aware of housing needs within the county. There are multiple entities within the county that have responsibilities with respect to housing. There is a need to centralize the housing development effort. The position of a Housing Coordinator who could more effectively address this issue, has been approved to report to the County Administrator.

Regional Housing Needs Determination for the County

The housing element of the general plan ([General Plan](#)) states that there is adequate acreage to accommodate the housing needs projected by the California Housing and Community Development Department (HCD) in the Regional Housing Needs Determination (RHND) provided to the county. This element has an extensive list of programs for achieving the goals.

The April 1, 2021 HCD report to the state discusses the progress made to date based on 2014 goals and not the 2019 goals. This means that Mono County is reporting progress based on obsolete goals ([Housing Elements](#) - State of CA site).

The Regional Housing Needs Determination (RHND) set by the state for Mono County covers the projection period of December 31, 2018 through August 15, 2027 and is shown below. The progress reported to the state through December 31, 2020, in the report issued April 1, 2021 is shown beside it.

Income Category	Percent	Housing Unit Need Net of Units Assigned to Mono County	Progress reported to State as of December 31, 2020
Very-low*	16.2%	39	0
Low	18.9%	46	9
Moderate	23.1%	55	10
Above-Moderate	41.8%	100	10
Total	100.0%	240	29
*Extremely-Low	6.9%	Included in Very-Low Category	
<i>Income Distribution: Income categories are prescribed by California Health and Safety Code (Section 50093, et seq.). Percents are derived based on Census/ACS reported household income brackets and county median income</i>			

It should be noted that the total requirement for the county is 240 units, which includes 155 units to be provided by the Town of Mammoth Lakes. The remaining 85 units must be provided by the communities in the unincorporated areas of the county.

High Price of Housing in the County

The high price of housing is a significant issue in Mono County. An overpaying household is defined as those paying in excess of 30% of their income toward housing cost. Approximately 42% of households in the unincorporated county are considered to be overpaying.

Overpaying Households, Unincorporated Mono County		
Total Households Characteristics	Number	% of Total Households
Total occupied units (households)	2,210	100.00%
Lower income households paying more than 50%	170	7.70%
Total Households Overpaying	940	42.50%
Total Renter Households Overpaying	365	16.50%
Total Owner Household Overpaying	575	26.00%

Additional Housing Burden of the County Due to the Mountainview Fire

The Mountainview Fire destroyed 96 homes in northern Mono County. At least a third of the homes destroyed had minimal or no insurance coverage for fire and citizens will need help in rebuilding. This places an additional burden on the county. These “lost” units, once rebuilt, will not count toward the additional housing units required per the state.

The county is working with the residents to find ways to assist in rebuilding, for example waiving certain fees, expediting permits, streamlining and reviewing plans.

Availability of Housing and Land in the County

Per the 2010 Census, 52% of total housing units in TOML were listed as “seasonal, recreational or occasional use” (4,981 of 9,629 total); in June Lake 59% (487 of 820); in Mono County overall 46% (6,383 of 13,912).

A more recent Census Bureau report indicates that Mono County, including the Town of Mammoth Lakes currently has 14,114 units of housing, of which 4,765 are occupied full time. The rest are units subject to vacancies. Of these units, only 60 were built in 2010 - 2018.

The housing element has identified 48 parcels in Bridgeport suitable for high density development resulting in a total of 185 potential units. Of the Bridgeport properties, 73 of the potential units would be for low and very low income residents whereas the remaining would be for moderate or above moderate income level residents. There are 41 parcels in June Lake suitable for a total of 123 potential units. Of the June Lake properties, only 5 would be targeted for low or very low income residents.

Availability of Funds

The Board of Supervisors established a housing reserve in FY 2018-19 with a \$200,000 allocation from the general fund. They added another \$200,000 to the affordable housing reserve in the 2019-20 budget. These funds have since been supplemented with additional funds from the sale of county owned housing in June Lake. While noteworthy, there is no specific affordable housing plan outlining how to use those dollars.

Funds can be used for buying units to be converted to deed restricted housing or for subsidized housing. The former approach is initially expensive but provides a permanent low-income unit. The latter approach provides for more units but funds need to be replenished regularly.

Rehabilitation of Units vs. Sale/Demolition

There are two specific goals stated in the Mono County HCD report worth pointing out. The first is a stated program to “Continue to participate in the state's Community Development Block Grant (CDBG) program for rehabilitation of owner-occupied housing units.” The County's goal is to rehabilitate five units during the planning period. The County will apply annually for CDBG funds. Although the HCD report states this is an ongoing objective it also indicates that no loans were received during 2020 and the county is waiting for state funding.

The second objective is to encourage the rehabilitation of existing units over their demolition where practical through various measures identified in the HCD report including but not limited to providing flexibility in administering building code requirements to facilitate the repair, remodel and refurbishment of existing units instead of their demolition; developing a user-friendly process for repair, remodel and refurbishment, including handouts, etc. The status of this objective indicates it is ongoing, but whether or not any of the recommended steps have taken place is not shown. There were no demolitions in 2020.

TOWN OF MAMMOTH LAKES

Town General Plan Housing Element

The Town of Mammoth Lakes is incorporated and therefore has its own general plan including a housing element ([Town of Mammoth Lakes](#)) that establishes the Town's policy relative to the maintenance and development of safe, decent, and affordable housing for existing and future residents. It addresses the state's planning period of 2019 to 2027. The element covers a discussion of the housing needs, availability and a strategy that establishes housing goals, policies and programs. Some of the actions for implementation, especially those related to funding in the town's housing element (e.g. Action H.2.A.1 and Action H.2.A.5), have no designated responsible party and no specific target date for completion.

Prior to developing the response to state mandates, in 2017 the Town had developed a comprehensive Community Housing Action Plan (CHAP) with the assistance of community leaders and members ([Housing Action Plan: Live, Work, Thrive! | Mammoth Lakes, CA - Official Website](#)). It lists the following goals:

- Provide 200 to 300 community housing units within 5 years (by 2022), through a combination of new development, redevelopment, housing programs and policies. The Plan will have life beyond this 5-year period and goals will be updated as dictated by needs;

- Target the full range of community housing needs currently not being met by the market, including rentals for households earning less than 80% area median income (AMI) and ownership housing for households earning up to 200% area median income (AMI);
- Produce community housing at a rate faster than job growth in the near term to help address the current housing shortage, unfilled jobs and provide opportunities for in-commuters who want to move to town; and
- Retain a strong base of residents and employees living in town.

CHAP goals and action plans have continued to be a priority for the Community Development Department although the CHAP is not considered an officially adopted document.

Regional Housing Needs Determination for the Town

The State of California determined the housing units by income category needed for Mono County and allocated a portion of those housing units to the Town of Mammoth Lakes. The following chart shows the current allocation to the town made in 2019 to be reached by 2027.

Income Category	Percent	Housing Unit Need
Extremely low	6.9%	10
Very-low*	10.3%	16
Low	19.4%	30
Moderate	21.9%	34
Above-Moderate	41.3%	65
Total	100.0%	155
<i>Income Distribution: Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on Census/ACS reported household income brackets and county median income</i>		

The town submitted its April 1, 2021 report to the California Housing and Community Development Department on the progress made during 2020. Developers have submitted Housing Development Applications (proposed development projects for all commercial and multi-family developments and where code requirements cannot be determined through other means) for 81 units in the Parcel of which 16 are for very low income families, 64 low income and one (1) above-moderate. None of these applications have been approved by the Town of Mammoth Lakes as of May 2021. An application by Mammoth Lakes Housing Inc. for 11 low-income units was approved by the TOML for a property on Sierra Manor Road. This project is not yet fully funded.

Although the April 1, 2021 HCD report to the State indicated numerous units receiving certificates of occupancy (permit to move into a completed dwelling), every one was for above-moderate income units (more than 120% of AMI). The extremely-low, low, lower and moderate income levels are not being addressed.

A review of the narrative of the housing element components listed two (2) goals to be accomplished in 2021, four (4) in 2024, one (1) related to dedicated funding is postponed (no date), and 25 target dates are listed as “ongoing.” One element concerning involvement of the Chamber of Commerce was considered completed.

High Price of Housing in the Town

The Mammoth Lakes housing market is subject to high demand for vacation and second homes. Housing prices are driven by relatively affluent second-home buyers; the rental market is also affected by the higher prices commanded for seasonal and nightly rentals of homes and condominiums making it substantially more expensive than in neighboring areas, such as Bishop, even with the additional cost of commuting.

Per the 2010 Census, 52% of total housing units in TOML were listed as “seasonal, recreational or occasional use” (4981 of 9629 total units 9629/4981). Approximately 63% of all households in the Town of Mammoth Lakes are considered to be overpaying.

According to data in the Community Housing Action Plan Part 2 ([CHAP](#)) based on 2012-2016 American Community Survey (ACS) data, approximately 75 percent of Mammoth Lakes' households are in the extremely-low, very-low, low-, and moderate-income categories, and cannot afford the market rate rental or owner-occupied housing in the town.

In addition to the problem of low income, the town has an estimated 575 special needs households and 354 disabled or homeless residents. For these residents, housing is just one of their issues but it is most basic to solving their other existing problems.

According to the Housing California: Fact Sheet, Focusing on Solutions: Homelessness in Rural Areas¹, “rural areas are often susceptible to larger numbers of “hidden homeless” — people who do not have a home, but may move from place-to-place (couch surfers) or live in their vehicles. Although this population is not visibly homeless, they are still consumers of government resources.”² Additionally, there are long-term tent and RV campers and dispersed campers, all of whom also need a place to live.

Due to the high cost and lack of availability of workforce housing in Mammoth Lakes, many workers have relocated to Bishop/Inyo County. This requires commuting and increased carbon emissions.

(¹ - Olmstead, Zack. HOUSING CALIFORNIA: FACT SHEET, FOCUSING ON SOLUTIONS: Homelessness in Rural Areas, Ed. Karen C. Naungayan, Housing California, 2010.)

(² - California Housing and Community Development - <https://www.hcd.ca.gov/>)

Availability of Land in the Town

The Town has identified several sites that are available for affordable housing units, subject to approved permits, plans, or affordable housing overlay zoning. Appendix B provides the list of those sites as shown in the town's housing element. It does not include sites being developed by Mammoth Lakes Housing Inc. to provide housing for low-income workers. Although the housing plan does not show that it will meet the Regional Housing Needs Determination (RHND) by the specific income levels indicated by the state, interviews with town officials indicate that the current plans show compliance will be met. A review of the April 1, 2021 report to the state shows no units in extremely low, very low, lower, or moderate area median income (AMI) levels.

At the April 28, 2021 meeting of the Town Council, the Council approved a resolution authorizing the Town Manager to execute the Disposition and Development Agreement (DDA) with Pacific West Communities, Inc. related to the construction of affordable, community housing on The Parcel (Phase I of the Parcel Plan). The Infill Infrastructure Grant (IIG) received by the Town and Pacific West requires that 368 (82%) of the total 450 planned units are for persons at 60% AMI or lower. The Phase 1 plan indicates that one of the 81 planned units in Phase 1 is to have occupants at above the 80% of AMI level; 64% (or 51-52 units) are at 60% of AMI or below.

The Council in its April 28, 2021 special meeting discussed that parking in Phase 1 of the Parcel project will be provided at the level of 1.3 spots per unit. This was identified as a problem when multiple community discussions were held on the Parcel. A council member stated that experience from Manzanita and Aspen Village shows that workforce housing requires more than 2.0 parking spots per unit. This will cause overflow parking in the neighboring areas. The Council left this an open item at that time to be reviewed as each phase goes forward.

Vacant Housing

The Census Bureau 2019 report states that the Town has 9,795 units, of which 2,514 are occupied full time (26%). The rest are units subject to vacancies. The CHAP report estimated that 59% were of occasional or seasonal use. Of the units existing in 2019, only 13 were built in 2010 or later. Some of these vacant units may be convertible into rentable units for workforce housing. However there is significant pressure caused by on-line rental services that entice owners to employ nightly vs. longer-term term rentals that could otherwise be made available for workforce housing ([Explore Census Data](#)).

The housing problem in Mammoth Lakes has gotten so severe that the Town's Chamber of Commerce, normally focused on improving, serving and advocating for the business community, used its resources as well as additional town resources, to match workers with potential housing. This project was developed in late 2018 and implemented in 2019. It is the only goal listed in the 2020 housing element report that is deemed to be accomplished.

Availability of Funding for Housing

The Town's budget sets aside a small amount for housing at the beginning of the fiscal year. If at the end of the fiscal year, there is money left over in the budget, additional funds may be

assigned to housing. The CHAP report recognizes that if the housing plan is to succeed, a dedicated source of funding needs to be developed. See “TOT dedication to a Housing Fund” (CHAP report, pg. 19). While an action plan exists (H.2.A.5), it lacks specificity of responsibility. Section H.2.A.5 in the California Housing and Community Development (HCD) report refers to increasing transient occupancy tax (TOT) from Measure A: the Town was considering a ballot measure for the November 2020 general election to increase the TOT amount by 1% to be used specifically for affordable housing. However, due to the unknown long-term economic impacts associated with COVID-19, the ballot measure was postponed. The Town will continue to explore placing a dedicated local tax initiative on a future ballot.

In years prior to 2015 developer fees were charged in lieu of providing on-site workforce housing. Fees went towards creating housing for residents who might not otherwise be able to afford it. In addition, Development Impact Fees (DIF) were charged to mitigate a project’s environmental and service impacts. Opposition to the fees resulted in a study to determine whether or not the policy was “developer-friendly.” Fees were dropped approximately 75%, a level that would stay in effect until 2019 and in 2019 the fees were increased from 5 to 10% ([Affordable Housing Nexus Study and Fee Recommendation](#)).

TOML currently allocates .85% of the Measure A transient occupancy tax (TOT) income to housing; 2.35% to Mammoth Lakes Tourism and .85% to transportation. These distributions are advisory, and can be readjusted at any time with action by the Town Council. The amount allocated to housing has not increased for many years even though this is one of the few controllable sources of funds to provide for housing. The current housing allocation from TOT appears to be insufficient to meet the stated goals of the Town’s Housing Element and CHAP, although neither plan has a specific price tag.

MAMMOTH LAKES HOUSING INC.

Mammoth Lakes Housing Inc. (MLHI) is a nonprofit public benefit corporation contracted by the town to accomplish some of its housing goals and provide stewardship of the town’s ownership deed restricted housing portfolio totaling 39 homes, among other responsibilities. In 2020, MLHI raised funds amounting to close to one million dollars through donations, allocations from the Town Council, and grants to be used for an Emergency Rent Payment Assistance Program to support local residents during the Covid-19 crisis. MLHI screened and assisted applicants for the program in addition to their ongoing responsibilities. They provided buyer assistance loans and oversaw transfer of deed restricted units. In addition, MLHI worked with the town to screen requests for purchase of housing assistance during that time.

MLHI is currently renovating the Country Glass Building on Sierra Manor Road in Mammoth Lakes to modify it to provide 11 workforce housing units.

MLHI has been operating under a contract with the town that is up for renewal at the time of the writing of this report. Their board of directors includes one member of the Town Council and one member of the County Board of Supervisors. At least one of the previous contracts between MLHI and the TOML was voted on and signed by a town council member who serves on the MLHI Board. This represents a conflict of interest.

MLHI's allocation from housing funds provided through TOT has not been increased since 2012 although their workload has. Their participation in The Parcel has also yet to be determined at the time of the writing of this report.

MLHI is the nonprofit organization that is also contracted and compensated by the county to administer some of its grant money related to housing. A previous contract with the county has expired and a new contract is currently being drawn up. MLHI assists the county with screening applicants for their housing program and provides select services to Inyo County as well.

MONO COUNTY

FINDINGS

F1-C The county administration has been advertising for a Housing Coordinator position for a significant period of time and has not been able to fill it; as a result the county has no designated specialist to oversee the housing needs.

F2-C The county's housing element of the general plan - designed to give the state specific analytical information, is updated to the state annually on the state's prescribed form by the required deadline of April 1. However, there is no detailed annual reporting to the Mono County Board of Supervisors on any specific goals and timelines that are not being met or need to be modified or changed. As a result there is minimal ongoing accountability to and by the Board of Supervisors and that can affect actions.

F3-C(a) The county's housing element states that there is plenty of land within the county for housing. One of the bigger barriers to developing below market rate (BMR) housing (rental or purchased housing units whose market rate cost must be subsidized if low income wage earners are to afford them) is an attitude that it may be acceptable for the county to support the development of housing for those who need it but it shouldn't be developed in one's own neighborhood, also known as NIMBY.

F3-C(b) June Lake and Mono Basin, have their own housing elements, however, they contain no specifics of who is responsible for the action plans and there are no timelines. The June Lake Housing Element is reviewed annually, the Mono Basin appears to not have been reviewed since its development in 2012. As a result there is a lack of consistency and accountability.

F4-C The first of the four goals listed in the county's housing element is to "Increase Overall Housing Supply, Consistent with County's Rural Character." Multi-family housing, tiny houses and Accessory Dwelling Units (ADUs) may be some of the solutions to the County's deficiency in workforce housing but they have the potential of changing the rural character. As a result the latter constraint can be self-defeating to the primary goal of increasing housing supply.

F5-C There are instances in the county where zoning for housing is approved for multi-family residences (MFR) but where single-family residences (SFR) exist and may or may not be in good condition. As a result, existing land space is not being effectively used to improve housing availability.

F6-C The Board of Supervisors has set aside funding for housing. However, there are no instructions as to the use of these funds. As a result there is a lack of clarity as to the county's management of housing funds and their use.

F7-C The Board of Supervisors has adopted a comprehensive housing element plan that brings the housing crisis picture into focus and has plans that should be completed by 2027 - the date set by the state in their RHND. Many of the specific action items are labeled as "ongoing." Target dates have already slipped on some of the items which casts doubt on the county's ability to meet the goals.

F8-C The current 2020 HCD Report to the state updates 2014 goals rather than addressing the 2019 goals to determine progress. As a result the severity of the housing needs may be misstated.

F9-C The county has some excellent objectives related to rehabilitation of existing properties but did not receive any CDBG funds in 2020 to effect those goals.

RECOMMENDATIONS

R1-C In light of the high priority need for the Housing Coordinator position, the Mono County Civil Grand Jury recommends that the County Board of Supervisors review the current hiring strategy and examine how it is promoting the position, the position description, payscale and any other elements of the position that might influence a potential candidate and expedite any administrative roadblocks. This review should be completed by August 31, 2021 and a candidate hired by December 31, 2021.

R 2-C The Mono County Civil Grand Jury recommends that the County Board of Supervisors work with the County Administrator to revisit the goals and timelines of the housing element of the general plan on an annual basis - at a minimum, starting with a meeting no later than September 30, 2021. The goal of this process is to recognize any modifications that will be necessary to meet the goals as specified in the general plan.

R3-C Community ownership in the housing plans is a step toward mitigating NIMBY. The Mono County Civil Grand Jury believes that when individual communities take ownership in creating housing plans, the goals are more likely to be achieved. It therefore recommends that the Board of Supervisors direct communities within the county to take responsibility for increasing housing and do the following by December 31, 2021 and annually thereafter and provide funds to accomplish this goal:

(a) Review the June Lake and Mono Basin Community Housing Plans and include specific responsibilities and timelines for achieving the goals.

(b) All other communities (RPACs) outlined in the county housing element who have not previously developed their own community housing plan are to develop one and include specific responsibilities and timelines for achieving the goals with the assistance of the County administrators.

(c) To accomplish community support the County Board of Supervisors is asked to identify those findings by January 31, 2022.

R4-C The Mono County Civil Grand Jury recommends the Board of Supervisors encourage development of tiny houses and ADUs by having staff develop several sample pre-approved building plans that meet county codes and have them available to interested parties by December 31, 2021.

R5-C The Mono County Civil Grand Jury recommends the Board of Supervisors direct staff to identify areas of multi family residential (MFR) zoning that have single family residential (SFR) dwellings in poor condition in order to encourage MFR building in lieu of rehabilitation of the existing SFRs and apply to the state for CDBG funds to accomplish the rehabilitation. Staff to report back to the Board by October 31, 2021.

R6-C With respect to the Housing Fund, the Mono County Civil Grand Jury recommends that the Board of Supervisors develop a specific plan for the management of the housing fund including priorities, timelines and responsibilities to administer the money designated as the housing fund. The plan to be completed and approved by December 31, 2021.

R7-C The Mono County Civil Grand Jury recommends that the Board of Supervisors direct the County Administrator to develop a long-range funding plan to address the housing crisis. The plan should be developed by January 31, 2022 for consideration by the County Board of Supervisors.

R8-C The Mono County Civil Grand Jury recommends that the Board of Supervisors direct County Administrator to review and modify goals including target dates in the housing element no later than December 31, 2021, utilizing the most current (2019) housing element goals with the intent to bring as many dates forward as possible. This recommended action to be done in recognition that the need for acting on the housing crisis is now, especially in light of the added pressures of the Mountainview Fire.

R9-C The Mono County Civil Grand Jury recommends that the Board of Supervisors direct county administration to review and modify goals regarding ways to expedite rehabilitation of existing properties including developing a list of those properties, assigning target dates, developing department objectives where appropriate and assigning a responsible party to manage the rehabilitation goals no later than January 31, 2021.

TOWN OF MAMMOTH LAKES

FINDINGS

F1-T The Town's housing element of the General Plan contains specific details as to plans for developing housing at various income levels. The state's needs requirements indicate a larger need for the housing for individuals in the very low to moderate AMI levels than the Town's housing element goals indicate. As a result, the potential for the town to meet the needs of lower income individuals is at risk.

F2-T Many town resources have been dedicated to marketing and recreation. Specifically Mammoth Lakes Tourism (MLT), an NGO, currently receives 2.35% of transient occupancy tax

(TOT) money (13% room tax) up to \$14.5 million in the current TOML budget and all of the Tourism Business Improvement District (TBID) money collected annually. The current housing crisis is exacerbated by their success in bringing tourists to town. The CHAP and Housing Element goals include consideration of an increase in TOT by 1% to be used exclusively for housing. Currently, funding for housing is considered only after the budget of \$14.5 million in income has been reached. As a result, funding for housing is inconsistent and there is no serious set of spending goals to accomplish.

F3-T A specific objective of the HCD report specifies an annual planning report to the town council, however, the status states that reporting to the state “is the primary way in which the town reports and tracks its progress towards RHNA.” There is no mention of reporting to the town council and components of the plan update are presented in a consent agenda, and thus not discussed in public session. As a result, town council’s potential lack of familiarity with the details of housing progress due to a lack of a formal and public presentation, can diminish their understanding of the seriousness of the issues, and therefore reduce the effectiveness of their decisions as they relate to housing.

F4-T A number of personnel who work in the town live in Bishop. While there is public transportation between the town and Bishop for those personnel to use there is no coordination with the work schedules of Bishop-based workers and the bus schedules. Nor is there a town sanctioned effort to provide help in coordinating carpool and/or public transportation schedules resulting in higher carbon footprints and additional costs for transportation.

F5-T The Town has a contract with Mammoth Lakes Housing, Inc. to oversee owned and rented units of workforce housing built or purchased for that specific purpose within the town, to ensure they are properly supported, maintained and used. In addition, the CHAP recognizes the importance of Mammoth Lakes Housing, Inc. to the overall plan for expanding housing. However, the contract payments to support the efforts of MLHI have not increased proportionately to the tasks resulting in an increased burden on MLHI.

F6-T The Mono County Civil Grand Jury found that several actions for implementation in the housing element, especially those related to funding for housing (e.g. Action H.2.A.1 and Action H.2.A.5.), have no designated single responsible party and no specific target date. The original target deadline for rezoning to accommodate housing development was December 2020. The update merely extends the deadline to 2021. The lack of specificity and accountability raises the potential to miss deadlines and therefore miss the opportunity to solve the housing crisis as soon as possible.

F7-T The goals of both the CHAP and the housing element include construction of accessory dwelling units (ADUs) indicating they can be a viable means of alleviating the housing crisis in town if they are restricted so as to not allow for nightly rentals and as a result be an excellent tool for providing additional workforce housing.

F8-T The housing element objective (H.2.A.5) is to explore placing a dedicated fee for housing on the ballot. However, the progress report says this is postponed due to COVID-19. As a result,

this means of acquiring additional funding for housing is not being addressed resulting in the lack of ability to provide more workforce housing.

F9-T The Town Council is aware that parking at The Parcel will be provided at the level of 1.3 spots per unit as of the April 28, 2021 special Town Council meeting. This was identified as a problem when numerous community discussions were held on the Parcel. A council member stated that experience from Manzanita and Aspen Village complexes shows that workforce housing requires more than 2.0 parking spots per unit. This will result in unwanted overflow parking in the neighboring areas.

F10-T Deed restricted units maintain affordability for lower income individuals. The plans for The Parcel currently include the possibility of a number of for-sale units. Whether or not these would be deed-restricted is not addressed. If these units are not deed-restricted the town's ability to provide and maintain affordable housing is hampered.

F11-T Airbnb and like entities have created more incentives for (1) second homeowners to rent their houses/condos for short periods of time when vacant instead of reserving them for housing for locals and/or long-term rental and (2) out-of-town visitors/investors to purchase available units and turn them into nightly rentals. As a result, the available affordable long term housing market is being severely diminished and results in loss of workforce.

RECOMMENDATIONS

R1a-T The Mono County Civil Grand Jury recommends that the Town Council require town administration to provide a public presentation to Council on the status of the housing element goals as shown in the HCD Report after its April 1 submission to the state each year - and ask for the update no later than the 3rd Town Council meeting of April each year. For the current year, this public report is to be requested and presented no later than September 30, 2021.

R1b-T The Mono County Civil Grand Jury recommends that the Town Council revisit the Goals and Timelines of the Housing Element of the General Plan in depth on at least an annual basis, starting no later than December 31, 2021. The goal of this process is to recognize the housing crisis is now and to recommend any modifications that will be necessary to meet the goals as specified in the plan or earlier.

R2-T The Mono County Civil Grand Jury recommends that the Town Council recognize that the commute to Bishop for housing is not going to go away soon and assign the town administration to study ways to assist workers in a safe and economical commute. Such study to be done by October 31, 2021 with implementation by the end of the year.

R3-T The Mono County Civil Grand Jury recommends to the Town Council that Mammoth Lakes Housing, Inc. be given an escalation in its new contract that will enable its efforts to expand its duties related to housing support for the town in compliance with the responsibilities assigned in CHAP. If the contract has been completed before this report is issued, the contract should be so amended. A contract to reflect this recommendation should be completed no later than September 30, 2021.

R4-T The Mono County Civil Grand Jury recommends that the Town Council monitor increases in housing based on plans proposed by developers and or individuals to assure there is compliance with the state's requirements for housing at the specific income levels indicated in the RHND. This activity to be done no later than December 31, 2021 and annually thereafter.

R5-T The Mono County Civil Grand Jury recommends that the Town Council increase the TOT by one percent to be dedicated exclusively to housing, in line with the CHAP report priorities. If TOT is not increased, then increase the percentage of the current TOT that is allocated to housing. The increased funds to be used to support development of workforce housing in line with the CHAP priorities. This should be done ideally no later than the adoption of the 2021 budget or should be modified by December 31, 2021.

R6-T The Mono County Civil Grand Jury recommends that the Town Council instruct town management to identify a specific responsible party and target date for each action in the housing element by December 31, 2021. (e.g. actions 2.4 and 2.5)

R7-T The Mono County Civil Grand Jury recommends that the Town Council encourage development of ADUs by having staff develop several sample pre-approved building plans that meet the town codes and have their existence publicized and be available to interested parties by December 31, 2021.

R8-T The Mono County Civil Grand Jury recommends that the Town Council instruct town administration to investigate the feasibility of placing a dedicated housing fee on the ballot to be done no later than March 31, 2022.

R9-T The Mono County Civil Grand Jury recommends that the Town Council revisit the parking allocations for The Parcel no later than 6 months after occupancy of Phase 1 to determine adequacy and create a remedy as necessary.

R10-T The Mono County Civil Grand Jury recommends that the Town Council work with Pacific West to include a number of deed-restricted for-sale units in The Parcel plan to accommodate local workers interested in home ownership and this intent be addressed and codified no later than December 31, 2021.

R11-T The Mono County Civil Grand Jury recommends that the Town Council consider a graduated TOT fee schedule for non-residents who have more than one nightly rental unit in town and request town management investigate and report on that feasibility to the Town Council no later than January 31, 2022.

MAMMOTH LAKES HOUSING

FINDINGS

F1-MLH The MLHI Board includes one member of the Town Council and one member of the County Board of Supervisors. At least one of the previous contracts has been voted on and signed by a Town Council member; this represents a conflict of interest.

RECOMMENDATIONS

R1-ML. The Mono County Civil Grand Jury recommends that Mammoth Lakes Housing review its current procedures to ensure that conflicts of interest are avoided, i.e. contracts between MLHI and a government entity should not be voted on or signed by the MLHI board member representing that government entity. This to be done by September 30, 2021.

REQUIRED RESPONSES

	Findings	Recommendations
Board of Supervisors	F1-C to F9-C	R1-C to R9-C
Mammoth Lakes Town Council	F1-T to F11-T	R1-T to R11-T
Board of Directors of MLHI	F1-MLH and F3-T	

Pursuant to Penal Code §933 and §933.05, the Mono County Civil Grand Jury requests responses from the following governing bodies within 90 days:

- Mono County Board of Supervisors
- Mammoth Lakes Town Council
- Mammoth Lakes Housing

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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APPENDIX A

DOCUMENTS REVIEWED

1. Governor's Office of Planning and Research General Plan Information and Guidance Documents/. <https://opr.ca.gov/planning/general-plan/>

2. AB 686 Summary of Requirements in Housing Element Law Government Code Section 8899.50, 65583(c)(5), 65583(c)(10), 65583.2(a)
<https://www.hcd.ca.gov/policy-research/plans-reports/docs/executivesummary.pdf> This law addresses the requirement to affirmatively further fair housing.
3. Mono County Financial Statements 2018-19 and 2020-21 Budget.
<https://monocounty.ca.gov/auditor/page/auditor-controller-audits>
4. Town 2018-19 and 2019-20 Financial Statements and 2020-21 Budget.
<https://www.townofmammothlakes.ca.gov/199/Financial-Documents>
5. Letter from the California Department of Housing and Community Development to the County Board of Supervisors relating their Regional Housing Need Determination of 240 low-income housing units by 2027.
6. 2019-2027 Housing Elements of the General Plans for Mono County, June Lake, Mono Basin and the Town of Mammoth Lakes.
<https://monocounty.ca.gov/housing-authority/page/mono-county-housing-element>
<https://www.townofmammothlakes.ca.gov/DocumentCenter/View/8407/Housing-Element-2019-2027---Amended-by-GPA-19-001?bidId=>
7. Annual Housing Element Progress Reports for years ended 12/31/2019 and 12/31/2020 for County of Mono and the Town of Mammoth Lakes.
8. (<https://www.monocounty.ca.gov/planning/page/2019-housing-element-update>)
9. The Mammoth Lakes Community Housing Action Plan (CHAP) of November 2017.
<https://ca-mammothlakes2.civicplus.com/DocumentCenter/View/8169/Part-1-Housing-Needs-Accomplishments-and-Challenges?bidId=> and Housing Action Plan
10. <https://www.latimes.com/homeless-housing/story/2021-04-30/covid-wfh-boosts-palm-springs-lake-tahoe-housing-markets>
11. U.S. Government Census Bureau Data for Mono County as of 2019
<https://data.census.gov/cedsci/profile?g=05000000US06051>

APPENDIX B

Summary of Projected Housing Units 2019-2027, By Category in Mammoth Lakes

Site or Project Name	Site Size (Acres)	Estimated Production of Housing Units	Extremely low	Very Low	Low	Moderate	Above Moderate	Total
1. The Parcel - Master Plan	24.72	172	3	57	60	52	0	172
2. Lodestar Housing Site	3.6	28		8	10	10		28
3. Snowcreek Master Plan	143	47					47	47
4. Tihana Townhomes (48 Lupin Street)	0.53	9					9	9

5. Large Vacant /underutilized RMF Sites	4.35 (RMF-1) 2.54 (RMF-2)	57				11	46	57
		313	3	65	70	73	102	313

GLOSSARY

ACS: American Community Survey, a resource for various community data.

ADU: accessory dwelling units: are units that are adjacent to a primary housing unit. They may be an add-on to the structure or free standing and are significantly smaller than the average US house.

Affordable Housing: considered to be housing that requires a monthly outflow of 30% of the household income or less.

AMI: area median income. The source for AMI used in this report is the Census Bureau, and the amounts are income for 2019 in inflation-adjusted dollars. <http://data.census.gov>

BMR: below market rate housing: refers to rental or purchased housing units whose market rate cost must be subsidized if low income wage earners are to afford them.

CDBG: Community Development Block Grant Programs: HUD provides annual grants on a formula basis to states, cities, and counties to develop viable urban communities.

CHAP: Community Housing Action Plan developed by the Town of Mammoth Lakes.

Community housing: all housing that meets the needs of long-term residents over a range of income levels.

DDA: Disposition and Development Agreement.

DIF: Development or Developer Impact Fee (used both ways)

ELI: extremely low income: 0-30% of the area median income (AMI).

General Plan: A **general plan** is each local government's blueprint for meeting the community's long-term vision for the future. The State of California provides guidelines for the structure of the document.

HCD: State of California Housing and Community Development Department

Housing Development Applications: Proposed development projects for all commercial and multi-family developments and where code requirements cannot be determined through other means.

Housing Element: a defined section of the General Plan related to housing that each city or town must create to be in compliance with California State Law. The Housing Element assesses current and future housing needs, identifies constraints in meeting those housing needs, and establishes housing goals, policies, and actions.

IMACA: Inyo Mono Advocates for Community Action, a non-profit providing family services to the communities, including housing assistance and food.

LI: Low-income: Very low to extremely low - 0 - 50% of the area median income (AMI) subject to adjustments for areas with unusually high or low incomes or housing costs. Income limits are adjusted for family size so that larger families have higher income limits.

Lower Income: 50% to 80% of AMI; the term may also be used to mean 0% to 80% of AMI.

Moderate income: 80% to 120% of AMI.

MFR: Multiple Family Residences.

MLT: Mammoth Lakes Tourism is a non-governmental organization (NGO).

Median Income: the amount which divides the income distribution into two equal groups, half having income above that amount, and half having income below that amount. **Mean income** (average) is the amount obtained by dividing the total aggregate income of a group by the number of units in that group.

Moderate income: 80-120% of AMI.

Missing Middle: population with an AMI of 81-120%

MLHI: Mammoth Lakes Housing, Inc. a non-profit public benefit corporation dedicated to low-income housing.

NGO: non-governmental organization is a non-profit group that functions independently of any government. NGOs, sometimes called civil societies, are organized on community, national and international levels to serve a social or political goal such as humanitarian causes or the environment.

NIMBY: not in my back yard.

RHND: Regional Housing Needs Determination. The California Department of Housing and Community Development (HCD) identifies the total number of homes for which each region in California must plan in order to meet the housing needs of people at all income levels. The total

number of housing units from HCD is separated into four income categories that cover everything from housing for very low-income households all the way to market rate housing.

SFR: Single Family Residence.

Special Needs Groups: State Housing Element Law defines special needs groups to include the following: senior households, female-headed households, large households, persons with disabilities (including developmental disabilities), homeless persons, and agricultural workers.

STR: short term rental - in Mammoth Lakes and Mono County this is a unit rented for less than 30 days.

(TBID) Tourism Business Improvement District - an assessment on gross revenue collected from Mammoth Lakes' tourism related businesses. Funds generated be spent on programs and activities that directly benefit the businesses paying into the TBID. These services are designed to increase visitation, generating more revenue for tourism-focused businesses, growing the TBID fund and allowing the town to prosper. .

Tiny House: a [dwelling unit](#) with a maximum of 37 square metres (400 sq ft) of [floor area](#), excluding [lofts](#).

TOT: Transient Occupancy Tax, or TOT, in Mammoth Lakes - is a 13% tax that is charged "for the privilege of occupancy of any transient occupancy facility" ([Town of Mammoth Lakes Municipal Code § 3.12.040](#)). The tax is required to be paid *by the guest* to the operator of the transient facility at the time that the rent is paid. It is the operator's responsibility to remit the TOT to the Town.

Unincorporated County: parts of Mono County excluding the Town of Mammoth Lakes, the only incorporated entity in the County.

VLI: very low income: 30-50% of AMI.



MONO COUNTY GRAND JURY

2020-2021

FIBER INTERNET CONNECTION AS ESSENTIAL INFRASTRUCTURE IN MONO COUNTY

FINAL REPORT

Submitted June 28, 2021


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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONO

IN RE: 2020-2021 Grand Jury	GENERAL ORDER
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I certify that the 2020-2021 Fiber Internet Connection as Essential Infrastructure in Mono County Final Report, pursuant to California Penal Code § 933 (a), complies with Title Four of the California Penal Code and direct the County Clerk to accept and file the final report as a public document.

Dated this 1st day of July 2021.



MARK MAGIT
Presiding Judge of the Superior Court

Mono County Grand Jury Report 2021

FIBER INTERNET CONNECTION AS ESSENTIAL INFRASTRUCTURE IN MONO COUNTY

June 28, 2021

SUMMARY

With the installation of Digital 395, a 450-mile backbone extending from Reno, Nevada to Barstow, California, broadband access in Mono County and the Town of Mammoth Lakes is better than many rural areas, but improvement is needed.

Some areas of Mono County are underserved with little or no broadband access. Other areas that have access suffer from frequent outages and unacceptable customer service.

The increase in demand caused by the COVID-19 pandemic and the subsequent shelter-in-place orders have highlighted shortcomings in broadband access in our communities. Overall demand has skyrocketed: online school, remote work, multiple devices per person connected to the Internet for communication as well as entertainment have driven this demand. At the same time there has been increased second homeowner occupation and tourist visitation. Due to the delivery methods of entertainment and information, demand will continue to increase.

Members of the Mono County Grand Jury are aware of widespread dissatisfaction with the current state of broadband access. While the Grand Jury cannot investigate private contracts between individuals and independent service providers, the Grand Jury can investigate local broadband availability, shortcomings, and potential solutions that are within the purview of our local government entities.

Two separate entities were identified that can influence the quality of local broadband access. The Grand Jury believes Mono County and the Town of Mammoth Lakes management are in a position to improve broadband availability and reliability for residents, visitors and businesses. In the county, the Mono County Board of Supervisors has the ability to make broadband access a priority in underserved portions of the county. In the Town of Mammoth Lakes, the Town Council can establish policies that encourage and support high quality broadband access and customer service.

BACKGROUND

Broadband access in rural areas in the United States is limited at best, and Mono County is no exception. The completion of the Digital 395 project in 2014 (made possible by The American Recovery and Reinvestment Act of 2009 and the FCC Rural Digital Opportunity Fund) was a

tremendous improvement to broadband access in Mono County. Supervisor John Peters in the June 10, 2021 *Mammoth Times* was quoted as saying, “The pandemic showed us how critical modern broadband access (100 mbps) is for education, health, economic opportunities and equity. Broadband is now just as essential to modern life as electricity and running water.”

At one time, broadband providers that were present in the area had local offices and good customer service. Over time, local offices were closed, and service became unreliable, demonstrated by the number of formal and informal complaints made by local residents.

The Mono County Grand Jury is aware of widespread complaints in the community, on social media, in letters to the editor in local newspapers and during public meetings.

Internet usage has grown in recent years with streaming of entertainment, work from home and use of social media, to mention just a few activities. In the last year with Covid-19 lockdowns and school closures, Internet usage skyrocketed and became an essential tool of life. It is now a necessity to have fast, reliable Internet service in the county and the town for the economic well being of the community. Not only does the community benefit from robust, reliable, and lightning fast Internet, it is a requirement for a healthy tourist economy. Further, the same robust, reliable, and lightning fast Internet is necessary to support people who choose to live in Mono County or Mammoth and work from home.

METHODOLOGY

The Mono County Grand Jury interviewed multiple key people associated with the Town of Mammoth Lakes and Mono County, some of them multiple times. In addition, interviews were conducted with individuals in Ashland, Oregon, which bills itself as “one of only 178 communities across the nation that provides residents with a locally-owned, lightning-fast fiber optic infrastructure.” The Grand Jury also consulted with legal counsel to determine any limitations imposed by agreements with the state of California that impact Mono County. Notes and videos from Mammoth Lakes Town Council meetings, Planning Commission meetings and Mono County Board of Supervisors meetings were reviewed as were anecdotal stories and complaints in local and social media.

DISCUSSION

Broadband for All?

When the Digital 395 project concluded in 2014, Mono County government representatives used their influence to encourage Suddenlink to invest a significant amount of money to upgrade the existing digital infrastructure in order to realize the high speeds provided by Digital 395. In 2015

Mono County's broadband services were among the best available almost anywhere - although in limited areas of the county.

Altice purchased Suddenlink in December of 2015. Following that acquisition, maintenance was neglected, local presence was reduced, customer satisfaction declined. The Mammoth Lakes office was closed, then the Bishop office was also closed, although recently reopened in January 2021. During this time, customer complaints about sporadic and unreliable service increased, and at the same time Suddenlink (Altice) customer service went from local offices to centralized call centers that provided little assistance. Ongoing and prolific complaints by friends and neighbors, letters in the local newspapers, and personal experiences all influenced the Grand Jury to investigate the state of broadband services in our county.

DIVCA - Digital Infrastructure and Video Competition Act of 2006

Under the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) television and Internet service providers hold franchise agreements with the state of California rather than with the local counties or municipalities. This means that neither Mono County nor the Town of Mammoth Lakes has the authority to terminate or replace the current franchise holder - Suddenlink (Altice). Only the state of California has that power. The county and town can by themselves, or in cooperation with other jurisdictions, try to influence the California Public Utilities Commission (PUC) to pressure Suddenlink (Altice) to better their performance and customer service.

When cable TV service was established in Mono County and the Town of Mammoth Lakes by a predecessor of Suddenlink (Altice), cable television service was the issue. DIVCA was enacted at a time when that was still the case. More recently Internet usage has exploded and cable service providers like Suddenlink (Altice) have repurposed their cable systems to accommodate the change. Cable TV service was designed to provide fast download speeds for web browsing and video streaming. In the last two years with intense use of video conferencing applications like Zoom, speed in both directions - download and upload - is necessary, putting strain on existing systems that were not designed for that purpose.

Under DIVCA there is no legal barrier to another provider coming into the area to provide Internet service. There is, however, a high initial investment involved to create the infrastructure in the form of fiber and/or coaxial cable to provide service to the *last mile*, connecting to individual homes and businesses. This financial hurdle is sufficient to discourage competition. Basically June Lake and Mammoth Lakes residents are stuck with what they have.

Customer Service or Lack Thereof

The current providers are held only to the customer service standards set by the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) with regards to cable TV service. In

fact, the Grand Jury's understanding of DIVCA customer service standards is that they only apply to television service and not Internet service even when supplied by the same provider, as for example in the case of Suddenlink (Altice). At this time, there are no customer service standards of any kind with regard to Internet service under DIVCA.

During a public Mammoth Lakes Town Council meeting (April 21, 2021), the town attorney said that several jurisdictions are working together to influence the California Public Utilities Commission (PUC) and state legislature to address this problem. While the scope of DIVCA customer service standards and penalties could be broadened to include internet service through precedent in the court, this has not yet happened.

A representative from Suddenlink (Altice) has presented to public meetings: County Board of Supervisors, Town Council of Mammoth Lakes, Town Planning Commission and Mammoth Lakes Chamber of Commerce in recent months to address ongoing dissatisfaction with Suddenlink (Altice) service. In such a discussion at the November 20, 2020 Mono County Board of Supervisors meeting, both the Suddenlink (Altice) representative and individual supervisors discussed citizens calling their county supervisor when customer service response became intolerable. The supervisor would then call the Mono County IT Director who would proceed to escalate the problem to a Suddenlink (Altice) contact.

In response to this issue, in mid-April the Mono County IT department set up a Suddenlink Escalation Portal on the Mono County website. This portal was announced in the Town of Mammoth Lakes e-News on May 7, 2021. The informal instructions presented in several meetings (referenced above) as potential solutions to problems with service include calling Suddenlink (Altice) to initiate a trouble ticket. If the issue is not resolved to the customer's satisfaction, the customer can enter the information through the Suddenlink Escalation Portal. While there has been an attempt to publicize the portal which is linked on the Mono County web page, it is still quite difficult to find. The Grand Jury has been told that it is Suddenlink (Altice) that determines whether resolution is successful. If the customer is not satisfied and disagrees, their only recourse is to open another trouble ticket and go through the entire process again.

The Last Mile

Part of the challenge with broadband access locally, as well as in many other rural communities, is the hurdle of *last mile* connection. *Last mile* is a term widely used in telecommunications, cable television and Internet industries to refer to the telecommunications networks that deliver telecommunication services to retail end-users (customers). More specifically, the *last mile* describes the portion of the telecommunications network chain that physically reaches the end-user's premises. Digital 395 is considered a *middle mile* network; the *last mile* is the connection from Digital 395 to the end user. The *last mile* can be any combination of copper wire (as used by Frontier Communications in Mono County), coaxial cable (used by Suddenlink (Altice)), or fiber optic cable (used by Race Communications among others). Fiber optic cable provides the fastest, highest quality broadband service. Fiber is state-of-the-art. The issue addressed in this Grand Jury report is the *last mile* connection.

Many for-profit Internet service providers are not willing to invest the tremendous amount of money required to install, upgrade or connect the needed *last mile* infrastructure to the fiber provided by Digital 395. The return on investment (ROI) is not enough for them to invest based on the number of households serviced by an infrastructure improvement.

Some communities in Mono County are physically close to the Digital 395 fiber so that the costs are low enough for it to be feasible for an internet service provider (ISP) to recoup their initial investment to make the *last mile* connection. For example, Crowley Lake's connection and physical proximity to Digital 395 has allowed two different broadband Internet providers to offer services in that area: Suddenlink (Altice) and Race Communications.

Other communities don't have adequate broadband service, such as Virginia Lakes (only satellite access for internet and phone) and Hammil Valley (only wireless Internet and spotty cell phone service available). The distance from these communities to Digital 395 would make the *last mile* investment very expensive. There are also islands within served areas that never had the infrastructure installed and cannot receive high speed broadband, such as areas of the Industrial Park in Mammoth Lakes, which has two parcels without a Suddenlink (Altice) broadband connection.

The new Starlink satellite system is a possibility for addressing some of the underserved communities in the unincorporated areas of the county. Starlink is at an early stage of development and it remains to be seen whether the capacity and speed of access are sufficient. There are also questions about the affordability of a Starlink subscription.

Because Digital 395 service does come into the Town of Mammoth Lakes and is accessible to some areas physically close to the Digital 395 fiber network, some homeowners' associations are exploring setting up their own private *last mile* networks. This points to the possibility of inequitable access. Finally, the patchwork of fiber infrastructure in Mammoth Lakes that already exists is convoluted and messy.

The Town of Mammoth Lakes has one major Internet Service Provider (ISP), which is Suddenlink (Altice). Frontier Communications offers Internet service in Mammoth Lakes, but it is over copper wire (DSL) and is therefore significantly slower than the coaxial cable connection offered by Suddenlink (Altice). Because Mammoth currently has these two Internet providers, it is likely not considered underserved when applying for grants to improve digital infrastructure.

During this investigation, it was discovered that conduit infrastructure is being installed into the Parcel and to the Community Recreation Center which will help facilitate fiber connections to the new structures. Unfortunately, that will not solve conduit infrastructure issues in other areas in town.

Public Utility

One direction this investigation explored was how communities and government entities could manage broadband access much like a public utility. One example is the city of Ashland, Oregon, that, when upgrading their infrastructure for city-managed utilities, installed conduit and fiber

optic cables to 95% of the units within the city limits. Ashland Fiber is an internet service provider and a city department. It has its own service technicians and customer support team, and has been successful in providing high-speed broadband internet all while paying off the debt incurred during the initial installation as well as contributing to the City's general fund. Their infrastructure is also available to other providers at a fee that allows consumers to choose their provider while having access to high speed fiber broadband. This serves as another source of revenue for the City of Ashland. The service provided by Ashland Fiber has been relatively reliable over the years and has not increased in price for five years according to an Ashland Fiber representative.

President Biden's American Jobs Plan

President Biden's American Jobs Plan, recently released to the public, addresses broadband inequities, proposes \$100B to bring high speed broadband to 100% of communities in the country, and specifically mentions promoting transparency and competition among broadband providers ([FACT SHEET: The American Jobs Plan](https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/)<https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/>). This could be extremely beneficial to Mono County residents and businesses if it provides funding for *last mile* infrastructure improvements for broadband to unserved and underserved communities in Mono County.

FINDINGS - MONO COUNTY

F1-C Broadband access in parts of unincorporated Mono County is inadequate leading to frustration among the citizenry. This unequal access to services negatively affects students requiring online instruction as well as the economic vitality of the region.

F2-C Starlink is a possible provider of broadband services in unincorporated and remote areas of Mono County. However, it is not clear at this point whether the service would be sufficient and affordable to residents in areas suffering from poor access.

RECOMMENDATIONS - MONO COUNTY

The Mono County Civil Grand Jury recommends:

R1-C The Mono County Board of Supervisors instruct staff to create a list of areas in Mono County that have inadequate broadband access and assign a priority sequence to the list by September 30, 2021.

R2-C Using the priority list created in recommendation R1-C above, the Mono County Board of Supervisors instruct staff to create and commit to a timeline for addressing the inadequate broadband access in the county. This timeline should identify funding sources to complete the

project. Staff should produce a comprehensive management plan for Internet access throughout the county by December 31, 2021 and update the Board of Supervisors quarterly.

FINDINGS - MONO COUNTY AND TOWN OF MAMMOTH LAKES

F1-C&T The Grand Jury is aware that state of California legislation is not within our purview. However, considering how great the impact of the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) is and how immense the frustration at all levels from citizen customers through county and town staff up to and including the Mono County Board of Supervisors and Town of Mammoth Lakes Town Council, the Grand Jury feels it is necessary to address this issue as a finding. The fact that all control of franchise agreements and enforcement of penalties for poor customer service have been removed from local control results in tremendous frustration at every level. The Grand Jury sees how it also results in unintended consequences as the local jurisdictions seek ways to work around the restrictions and support their citizens' needs. At the same time local citizens are attempting to deal with the situation through homeowners' associations and other informal groups to access more robust broadband service.

F2-C&T Mono County and the Town of Mammoth Lakes have little leverage over customer service standards that are established at the state level through DIVCA. Suddenlink (Altice) provides inconsistent and/or poor customer service. Further, Suddenlink (Altice) is using the County and Town IT staff to help manage its customer service without paying for the service provided, resulting in a strain on staff and frustration for customers and staff.

F3-C&T Recently a Suddenlink (Altice) escalation portal on the Mono County website has been created to address the ongoing customer service issues in the county and town and is intended to alleviate frustration among the citizenry. Little instruction is provided on how to use the escalation portal.

RECOMMENDATIONS - MONO COUNTY AND TOWN OF MAMMOTH LAKES

The Mono County Civil Grand Jury recommends:

R1-C&T The Mammoth Lakes Town Council (MLTC) and the Mono County Board of Supervisors (BOS) encourage their legal counsels to continue to coordinate with each other and other jurisdictions to address the shortcomings of the DIVCA legislation. A quarterly report detailing progress should be presented to the BOS and MLTC no later than October 31, 2021. Ongoing.

R2-C&T The Mammoth Lakes Town Council (MLTC) and the Mono County Board of Supervisors (BOS) instruct the of Mammoth Lakes town manager and Mono County CAO respectively to coordinate with their respective staff and legal counsel to develop a plan to

pursue enforcement of the customer service standards outlined by DIVCA, which may include leveraging penalties for not meeting customer service standards. The joint plan to be submitted to the MLTC and BOS by October 31, 2021 with quarterly followup.

R3-C&T The Mammoth Lakes Town Council (MLTC) and the Mono County Board of Supervisors (BOS) instruct the Mammoth Lakes town manager and Mono County CAO respectively to coordinate and instruct the IT department to follow up on complaints submitted on the Suddenlink (Altice) escalation portal to determine if they are successfully resolved. This may necessitate follow-up communications to complainants and could include expanding the IT department. Follow-up on complaints to be addressed monthly and reported back to MLTC and BOS beginning no later than October 31, 2021.

R4-C&T The Mammoth Lakes Town Council (MLTC) and the Mono County Board of Supervisors (BOS) instruct the Mammoth Lakes town manager and Mono County CAO respectively to coordinate and instruct the IT department to create more detailed and easy-to-follow instructions on how to use the newly established Suddenlink escalation portal no later than September 30, 2021.

COMMENDATIONS - MONO COUNTY AND TOWN OF MAMMOTH LAKES

The Grand Jury commends the Mono County IT department for supporting the citizens of the county and town in dealing with ongoing Suddenlink customer service problems.

The Grand Jury commends the Mono County and Town of Mammoth Lakes legal counsels for working together and with other jurisdictions to address the problems presented by the DIVCA state legislation.

FINDINGS - TOWN OF MAMMOTH LAKES

F1a-T The franchise contract for cable television and Internet is controlled by the state but there is no legal barrier to competitors entering the local market. The initial investment in *last mile* infrastructure is the barrier to competition. The high cost of entering the market creates extreme frustration for the citizens of the town because they have no good alternatives to the current Internet service providers and no prospects for the situation to improve.

F1b-T The technology of using coaxial cable, which is efficient for television transmission, is not the best technology for delivering high speed Internet to customers who are suffering from poor and inconsistent Internet access. Fiber optic cable is a better alternative.

F1c-T Town of Mammoth Lakes does not qualify as an underserved community because of the two providers of broadband access in the town. This may hinder grant funding for upgrading the system or installing a new one under control of the town.

F2-T Inaction by the Town Council on the issues of poor and inconsistent fiber Internet access has resulted in an exacerbated patchwork of availability that depends upon local homeowners' associations and other informal groups to install their own systems making it difficult and potentially more costly. Each of these systems has to be maintained throughout its lifetime (e.g.: Village homeowners group).

RECOMMENDATIONS - TOWN OF MAMMOTH LAKES

The Mono County Civil Grand Jury recommends:

R1-T Mammoth Lakes Town Council instruct town staff to complete a feasibility study by December 31, 2021 regarding creation of a *last mile* fiber network connected to Digital 395 throughout the Town of Mammoth Lakes. This study is to include an analysis of whether such a network may be owned and managed by a distinct government entity (examples include the town itself, a special district, community service district, or joint powers authority) that retains control over ownership, monitoring and granting access as an Internet service provider. This entity would also be poised to apply for funding such as the American Jobs Act. The study, to be completed by March 31, 2022 should include cost and time estimates, possibly for several different alternative solutions for consideration by the Town Council no later than April 30, 2022.

R2-T Mammoth Lakes Town Council instruct public works staff to develop a plan to facilitate future installation of conduit and fiber optic connections within the town through a policy of installing conduit, as is being done in the Parcel and CRC projects, anywhere where in-ground repairs and improvements are being made. This may require establishing cooperative activity with other entities as, for example, AmeriGas. The plan to be presented to the Town Council no later than January 31, 2022.

R3-T The Mammoth Lakes Town Council instruct staff to create a comprehensive management plan for the patchwork of municipal fiber and Internet access via fiber for the town (*last mile*), by June 1, 2022.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the grand jury requests responses as follows:

	Findings	Recommendations
Board of Supervisors	F1-C, F2-C, F1-C&T to F3-C&T	R1-C, R2-C, R1-C&T to R4-C&T
Mammoth Lakes Town Council	F1a to F1c-T, F2-T,	R1-T to R3-T

	F1-C&T to F3-C&T	R1-C&T to R4-C&T
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Pursuant to Penal Code §933 and §933.05, the Mono County Civil Grand Jury requests responses from the following governing bodies within 90 days:

- Mono County Board of Supervisors
- Mammoth Lakes Town Council

INVITED RESPONSES

- Nate Greenberg, Mono County IT Director: all findings and recommendations.
- Stacey Simon, Mono County Counsel: R1-C&T and R2-C&T
- Andrew Morris, Town of Mammoth Lakes Attorney: R1-C&T and R2-C&T

GLOSSARY

DIVCA - Digital Infrastructure and Video Competition Act of 2006

Escalation Portal - A [website](#) created by the Mono County IT department to allow Suddenlink (Altice) customers to register customer service issues that have not been addressed to their satisfaction, so that the issue is escalated to a higher level of management in the company.

ISP - Internet Service Provider

Last Mile - *Last mile* is a term widely used in telecommunications, cable television and Internet industries to refer to the telecommunications networks that deliver telecommunication services to retail end-users (customers). More specifically, the *last mile* describes the portion of the telecommunications network chain that physically reaches the end-user's premises. Digital 395 is considered a *middle mile* network; the *last mile* is the connection from Digital 395 to the end user.

MBPS - Megabits per second, a term used to describe Internet speeds.

<p>Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.</p>
