



# Agenda

## INTERNAL OPERATIONS COMMITTEE

JULY 12, 2021  
10:30 A.M.

Join from PC, Mac, Linux, iOS or Android: <https://cccouny-us.zoom.us/j/82558092550>  
Meeting ID: 825 5809 2550

### Or Telephone, dial:

USA 214-765-0478

USA 888-278-0254 (US Toll Free)

Conference code: 845965

[Find local AT&T Numbers](#)

Supervisor Candace Andersen, Chair

Supervisor Diane Burgis, Vice Chair

### Agenda Items:

Items may be taken out of order based on the business of the day and preference of the Committee

1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).
3. RECEIVE and APPROVE the Record of Action for the May 10, 2021 IOC meeting. *(Julie DiMaggio Enea, IOC Staff)*
4. CONSIDER changes to the Mental Health Commission bylaws pertaining to the Commissioner appointment process and DETERMINE action to be taken. *(Chair Andersen)*
5. CONSIDER accepting the Small Business Enterprise, Outreach, and Local Bid Programs Report, reflecting departmental program data for the period July 1 through December 31, 2020. *(Cindy Shehorn, Purchasing Services Manager, Public Works Department)*
6. CONSIDER recommendations for modifying Board Resolution No. 2011/55, which concerns eligibility of family members of County Supervisors for appointment to seats on boards, committees or commissions for which the Contra Costa County Board of Supervisors is the appointing authority. *(Julie Enea, County Administrator's Office)*
7. The next meeting is currently scheduled for August 9, 2021.

8. Adjourn

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*The Internal Operations Committee will provide reasonable accommodations for persons with disabilities planning to attend Internal Operations Committee meetings. Contact the staff person listed below at least 72 hours before the meeting.*

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*Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Internal Operations Committee less than 96 hours prior to that meeting are available for public inspection at 1025 Escobar St., 4th Floor, Martinez, during normal business hours. Staff reports related to items on the agenda are also accessible on line at [www.co.contra-costa.ca.us](http://www.co.contra-costa.ca.us).*

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*Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.*

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For Additional Information Contact:

Julie DiMaggio Enea, Committee Staff  
Phone (925) 655-2056, Fax (925) 655-2066  
[julie.enea@cao.cccounty.us](mailto:julie.enea@cao.cccounty.us)



# Contra Costa County Board of Supervisors

## Subcommittee Report

### INTERNAL OPERATIONS COMMITTEE

3.

**Meeting Date:** 07/12/2021

**Subject:** RECORD OF ACTION FOR THE MAY 10, 2021 IOC MEETING

**Department:** County Administrator

**Referral No.:** N/A

**Referral Name:** RECORD OF ACTION

**Presenter:** Julie DiMaggio Enea      **Contact:** Julie DiMaggio Enea (925) 655-2056

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#### **Referral History:**

County Ordinance requires that each County body keep a record of its meetings. Though the record need not be verbatim, it must accurately reflect the agenda and the decisions made in the meeting.

#### **Referral Update:**

Attached is the Record of Action for the May 10, 2021 IOC meeting.

#### **Recommendation(s)/Next Step(s):**

RECEIVE and APPROVE the Record of Action for the May 10, 2021 IOC meeting.

#### **Fiscal Impact (if any):**

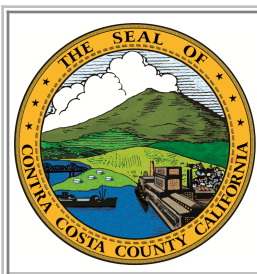
None.

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#### **Attachments**

DRAFT Record of Action for the May 10, 2021 IOC Meeting

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## INTERNAL OPERATIONS COMMITTEE

RECORD OF ACTION FOR  
May 10, 2021

Supervisor Candace Andersen, Chair  
Supervisor Diane Burgis, Vice Chair

Present: Candace Andersen, Chair  
Absent: Diane Burgis, Vice Chair  
Staff Present: Julie DiMaggio Enea, Staff  
Attendees: Lea Castleberry, District III Supervisor's Office; David Sanford, Labor Relations Manager

### 1. Introductions

***Chair Andersen announced that Vice Chair Burgis would not be in attendance due to a family emergency.***

### 2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

***No one requested to speak during the public comment period.***

### 3. RECEIVE and APPROVE the Record of Action for the April 12, 2021 IOC meeting.

***Chair Andersen approved the record of action for the April 12, 2021 meeting as presented.***

AYE: Chair Candace Andersen

Other: Vice Chair Diane Burgis (ABSENT)

### 4. INTERVIEW candidates for the At Large Alternate seat on the Contra Costa County Fire Protection District Advisory Fire Commission and DETERMINE recommendation for Board of Supervisors consideration.

***Neither candidate appeared for the interview. Based on the candidate applications, Chair Andersen decided to recommend Soheila Bana for the At Large Alternate seat vacancy and directed staff to forward the recommendation to the Board of Supervisors.***

AYE: Chair Candace Andersen

Other: Vice Chair Diane Burgis (ABSENT)

5. RECOMMEND to the Board of Supervisors the reappointment of Marjorie McWee to the County Representative seat on the County Connection Advisory Committee to a new term that will expire on June 30, 2023.

***Chair Andersen approved the staff recommendation to reappoint Marjorie McWee to the County Connection Citizens Advisory Committee, and directed staff to forward that recommendation to the Board of Supervisors.***

AYE: Chair Candace Andersen

Other: Vice Chair Diane Burgis (ABSENT)

6. RECEIVE status report on development of strategies in response to the Bay Area Air Quality Management District's Cut the Commute Challenge.

***David Sanford provided a high-level overview of the status of negotiations. Chair Andersen accepted the staff report and asked that it be forwarded to the Board of Supervisors for their information.***

AYE: Chair Candace Andersen

Other: Vice Chair Diane Burgis (ABSENT)

7. The next meeting is scheduled for June 14, 2021.

8. Adjourn

***Chair Andersen adjourned the meeting at 10:42 a.m..***

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For Additional Information Contact:

Julie DiMaggio Enea, Committee Staff  
Phone (925) 655-2056, Fax (925) 655-2066  
julie.enea@cao.cccounty.us



# Contra Costa County Board of Supervisors

## Subcommittee Report

### INTERNAL OPERATIONS COMMITTEE

4.

**Meeting Date:** 07/12/2021  
**Subject:** Mental Health Commission Request to Modify Bylaws Pertaining to Vacancies and Recruitment  
**Submitted For:** Monica Nino, County Administrator  
**Department:** County Administrator  
**Referral No.:** IOC 21/5  
**Referral Name:** Advisory Body Recruitment  
**Presenter:** Candace Andersen      **Contact:** Julie Enea (925) 655-2056

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#### **Referral History:**

In the early spring of 2021 the Executive Committee of the Mental Health Commission (MHC) discussed the fact that its Bylaws were not consistent with the current practices of how members of the Board of Supervisors appoint Mental Health Commissioners. The MHC Bylaws were last amended in 2018.

The current MHC Bylaws provide for the following:

### **ARTICLE IV, SECTION 4. VACANCIES AND RECRUITMENT**

#### **4.1 Role of the Commission**

At the discretion of and to the extent requested by the Board, the Commission shall be involved in the recruitment and screening of applicants. When an application is received, the Commission will appoint an Ad Hoc Applicant Interview Committee, pursuant to Article VIII, Section 5.1. Following an interview by the Ad Hoc Applicant Interview Committee, it will forward its recommendation to the Commission. After Commission vote and approval, the recommendation for nomination of the applicant shall be forwarded to the appropriate member of the Board of Supervisors for that Supervisor's consideration.

#### **4.2 Applications** The Commission shall receive applications on an ongoing basis.

#### **4.3 Commission Recommendation**

a) Pursuant to Article IV, section 1.2, the Commission shall, to the extent possible, recommend for appointment those persons who will assist the County in complying with the ethnic and demographic mandates in the Welfare & Institutions Code.

b) To the extent possible, the Commission shall recommend for appointment applicants who have experience and knowledge of the mental health system, preferably in the County.

## **Referral Update:**

In practice, members of the Board of Supervisors interview applicants, ensure that they meet the requirements of Commission membership, and encourage them to attend MHC meetings prior to appointment. However, Supervisors have not recently requested that the Commission appoint an Ad Hoc Applicant Interview Committee or asked them to make recommendations for nominations.

Supervisor Candace Andersen, the representative of the Board of Supervisors on the MHC, met with MHC Chair Graham Wiseman. It was agreed that the provision in the bylaws regarding an Ad Hoc committee making recommendations for appointment created confusion, and Supervisor Andersen suggested that the bylaws be amended to reflect the current practice.

County Counsel provided the following draft amendment to clear the confusion, to make the bylaws reflective of current practices by the Board of Supervisors, and to have this provision of the bylaws reflect changes to Welfare and Institutions Code sections 5604 and 5604.5.

### **SECTION 4. VACANCIES AND RECRUITMENT**

4.1 Role of the Commission. The role of the Commission in recruitment of new commissioners is at the discretion of and to the extent requested by the Board of Supervisors.

4.2 The Commission is encouraged to help identify and recruit qualified applicants to apply for any vacancies on the Commission.

4.3 Commission Identification and Recruitment of Applicants

a) Pursuant to Article IV, section 1.2, the Commission shall to the extent feasible identify and encourage applicants who will assist the County in maintaining a Commission that represents and reflects the diversity and demographics of the County as a whole, as provided in the Welfare and Institutions Code.

b) To the extent possible, the Commission shall identify and encourage applicants who have experience and knowledge of the mental health system, preferably in the County.

4.4 Each County Supervisor will encourage any applicants being considered for the Mental Health Commission to attend a Commission meeting prior to their appointment.

4.5 The Chair and Executive Committee of the Mental Health Commission shall coordinate appropriate training and orientation of all newly appointed commissioners.

At the June 2, 2021 meeting of the MHC, a discussion ensued regarding County Counsel's draft amendment. Concern was expressed about achieving diversity and representation by consumers of mental health services, and effective orientation of prospective members to promote participation and commitment to the office. At the conclusion of the discussion, the MHC decided, on a split vote (4 Aye, 2 No, 3 Abstain), to send the attached letter to Supervisor Andersen requesting IOC consideration of a revision to what County Counsel had drafted. Only Sections 4.3 through 4.5 had recommended changes. The requested changes by the MHC to County Counsel's draft are underlined below:

4.3 Commission Identification and Recruitment of Applicants

a) Pursuant to Article IV, section 1.2, the Commission shall, to the extent possible, identify and encourage applicants who will assist the County in complying with the ethnic and demographic mandates in the Welfare & Institutions Code.

b) To the extent possible, the Commission shall identify and encourage applicants who have experience and knowledge of the mental health system, preferably in the County

4.4 Each County Supervisor will encourage any applicant being considered for the Mental Health Commission to attend at least one Commission meeting prior to their appointment. Applicants are

required to meet with the MHC Chair, MHC Vice Chair and/or ad-hoc committee prior to accepting position to ensure full understanding of the roles, responsibilities, and restrictions of being a Mental Health Commissioner.

4.5 Upon appointment by the District Supervisor, the Chair and Executive Committee of the Mental Health Commission shall coordinate appropriate training and orientation of all new commissioners.

Because the appointment process remains in the discretion of the Board of Supervisors, requiring applicants to meet with the MHC Chair, Vice Chair and/or ad-hoc committee is not recommended. However, a compromise would be to include the following language to Section 4.4. The MHC changes remain underlined, and the compromise language is in bold:

4.4 Each County Supervisor will encourage any applicant being considered for the Mental Health Commission to attend at least one Commission meeting prior to their appointment. ~~Applicants are required~~ **may meet** with the MHC Chair, MHC Vice Chair and/or ad-hoc committee prior to accepting **the** position to ensure **a** full understanding of the roles, responsibilities, and restrictions of being a Mental Health Commissioner.

**Recommendation(s)/Next Step(s):**

CONSIDER changes to the Mental Health Commission bylaws pertaining to the Commissioner appointment process and DETERMINE action to be taken.

**Fiscal Impact (if any):**

No fiscal impact.

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**Attachments**

June 2, 2021 Letter from Mental Health Commission requesting Bylaws Changes

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# CONTRA COSTA MENTAL HEALTH COMMISSION

1340 Arnold Drive, Suite 200  
Martinez, CA 94553

Ph (925) 313-9553  
Fax (925) 957-5156

[cchealth.org/mentalhealth/mhc](http://cchealth.org/mentalhealth/mhc)

June 2, 2021

Dear Supervisor Candace Andersen,

We respectfully ask the Internal Operations Committee of the Contra Costa County Board of Supervisors to read and consider the Mental Health Commission's suggestion to the bylaw regarding Section 4. VACANCIES AND RECRUITMENT.

The following language presents 1) the text that you are requesting; and 2) the text that the Mental Health Commission is requesting as an alternative (note: highlighted text is what differs).

## **Text Proposed by Supervisor Candace Andersen, District II**

### SECTION 4. VACANCIES AND RECRUITMENT

#### 4.1 Role of the Commission

The role of the Commission in recruitment of new commissioners is at the discretion of and to the extent requested by the Board of Supervisors.

4.2 The Commission is encouraged to help identify and recruit qualified applicants to apply for any vacancies on the Commission.

#### 4.3 Commission Identification and Recruitment of Applicants

a) Pursuant to Article IV, section 1.2, the Commission shall, to the extent possible, identify and encourage applicants who will assist the County in complying with the ethnic and demographic mandates in the Welfare & Institutions Code.

b) To the extent possible, the Commission shall identify and encourage applicants who have experience and knowledge of the mental health system, preferably in the County

4.4 Each County Supervisor will encourage any applicant being considered for the Mental Health Commission to attend a Commission meeting prior to their appointment.

4.5 Upon appointment, the Chair and Executive Committee of the Mental Health Commission shall coordinate appropriate training and orientation of all new commissioners.

## **Text Proposed by the Mental Health Commission:**

### SECTION 4. VACANCIES AND RECRUITMENT

#### 4.1 Role of the Commission

The role of the Commission in recruitment of new commissioners is at the discretion of and to the extent requested by the Board of Supervisors.

4.2 The Commission is encouraged to help identify and recruit qualified applicants to apply for any vacancies on the Commission.



The Contra Costa County Mental Health Commission is appointed by the Board of Supervisors to advise them on all matters related to the county's mental health system, in accordance with mandates set forth in the California State Welfare & Institutions Code, Sections 5604 (a)(1)-5605.5. Any comments or recommendations made by the Mental Health Commission or its individual members do not represent the official position of the county or any of its officers. The Commission is pleased to make special accommodations, if needed, please call ahead at (925) 313-9553 to arrange.

#### 4.3 Commission Identification and Recruitment of Applicants

a) Pursuant to Article IV, section 1.2, the Commission shall, to the extent possible, identify and encourage applicants who will assist the County in complying with the ethnic and demographic mandates in the Welfare & Institutions Code.

b) To the extent possible, the Commission shall identify and encourage applicants who have experience and knowledge of the mental health system, preferably in the County

4.4 Each County Supervisor will encourage any applicant being considered for the Mental Health Commission to attend at least one Commission meeting prior to their appointment. Applicants are required to meet with the MHC Chair, MHC Vice Chair and/or ad-hoc committee prior to accepting position to ensure full understanding of the roles, responsibilities, and restrictions of being a Mental Health Commissioner.

4.5 Upon appointment by the District Supervisor, the Chair and Executive Committee of the Mental Health Commission shall coordinate appropriate training and orientation of all new commissioners.

Will you please honor the fact the Commission is currently not reflective of the diversity of the client population in the county? We would like to ensure we are following the guidelines of Executive Order No. 13985 *Advancing Racial Equity and Support for Underserved Communities through the Federal Government* (pg 7009 - 7013), signed into law January 20, 2021 by President Joseph R. Biden Jr., as well as the Recruitment of Board/Commission Members, WIC 5604 (a) (1), and *Best Practices for Local Mental/Behavioral Health Boards and Commissions 2020*, rev.1 (pg. 24, Best Practices, 2020).

We realize that the Board of Supervisors is inundated with responsibilities of the county and Mental Health Commissioners are ready and willing to take on the task of recruiting, orienting/interviewing, and making recommendations to the Board of Supervisors for candidates to fill open seats on this Commission.

Sincere Regards,

Contra Costa County Mental Health Commission



# Contra Costa County Board of Supervisors

## Subcommittee Report

### INTERNAL OPERATIONS COMMITTEE

5.

**Meeting Date:** 07/12/2021

**Subject:** Small Business Enterprise & Outreach Program and Local Bid Preference Program Reports for Jul-Dec 2020

**Submitted For:** Brian M. Balbas, Interim Public Works Director/Chief Engineer

**Department:** Public Works

**Referral No.:** IOC 20/1; 20/4

**Referral Name:** Small Business Enterprise and Outreach Programs; Local Bid Preference Program

**Presenter:** Cindy Shehorn, Purchasing Services Manager

**Contact:** Cindy Shehorn (925) 957-2491

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### **Referral History:**

Contra Costa County values the contributions of small business and has developed programs to assist in soliciting and awarding contracts to the SBE community. The Board of Supervisors adopted these programs to enable small and local businesses to compete for a share of the County's purchasing transactions.

The Board of Supervisors has set a goal of awarding at least 50% of eligible product and service dollars to small businesses. The Small Business Enterprise (SBE) Program applies to: (1) County-funded construction contracts of \$100,000 or less; (2) purchasing transactions of \$100,000 or less; and (3) professional/personal service contracts of \$100,000 or less.

The objective of the program is to award at least 50% or more of the total eligible dollar base amounts to SBEs. A Small Business Enterprise, as defined by the California Government Code, Section 14837, Chapter 3.5 must be:

- Independently owned and operated business, which is not dominant in its field of operation;
- The principal office of which is located in California, the officers of which are domiciled in California, and which together with affiliates, has 100 or fewer employees;
- And have average annual gross receipts of fifteen million dollars (\$15,000,000) or less over the previous three tax years, or a manufacturer with 100 or fewer employees.

### **Reporting Requirements**

It is the responsibility of each County department to track and compile the data on these purchasing activities so a countywide report can be provided to the Board of Supervisors.

The Internal Operations Committee has responsibility for evaluating the semi-annual reports and making recommendations to the Board on program policies and reporting. The Board receives reports in six-month increments, with the last report submitted to the Board for the period ending

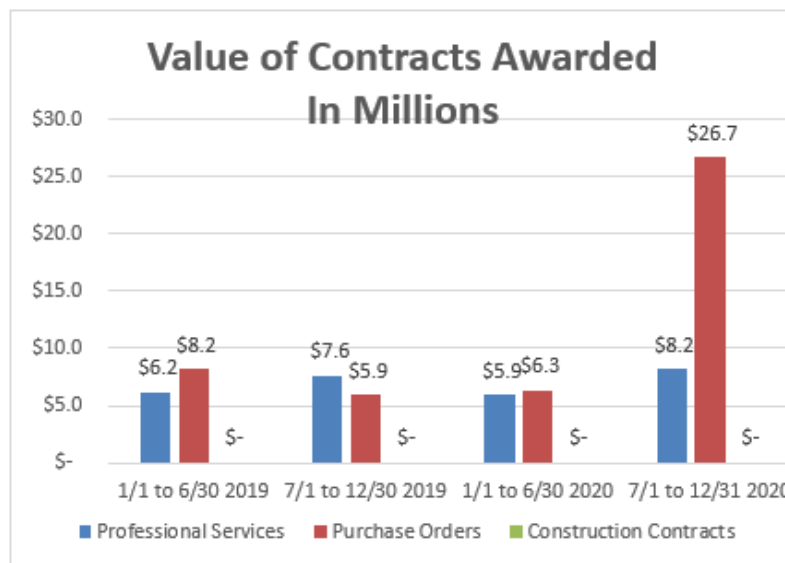
June 2020. Attachment A constitutes the report due for the time period of July 1 – December 31, 2020.

### **Referral Update:**

The table below summarizes the attached department activity on a countywide basis.

#### **July – December 2020**

<b>ACTIVITY TYPE:</b>	<b>Total # of ALL Contracts</b>	<b>Total # of SBE Contracts</b>	<b>SBE Percent of Total</b>	<b>Total Dollar Value of ALL Contracts</b>	<b>Total Dollar Value of SBE Contracts</b>	<b>SBE Percent of Total</b>
Professional/Personal Services	391	152	38.9%	\$76,013,460	\$6,217,403	8.2%
Purchasing Transactions	1,008	293	29.1%	\$20,008,707	\$5,342,257	26.7%
Construction Contracts	0	0	0%	\$0	\$0	0%



While the County did not achieve the 50% goal, this information shows the County directed more than \$11.5 million in qualifying transactions to SBE firms during the six-month reporting period, achieving a 38.9% award rate for professional/personal services transactions and a 29.1% award rate for purchasing transactions. No construction contracts were reported in this period.

It is worth noting that the SBE participation goals of surrounding agencies are typically in the 20-25% range. By that measure, Contra Costa County's reported activity is below that threshold for professional/personal services, and above that range for purchasing transactions. The following departments are commended for achieving 50% or more program compliance this reporting period:

- **Professional/Personal Services:** Clerk Recorder-Elections, Conservation and Development, County Administrator - Clerk of the Board, District Attorney and Probation

- Purchases: Agriculture, Clerk Recorder-Elections, County Counsel, and Treasurer-Tax Collector

Of particular note, the following Departments are to be commended for achieving a 100% award rate for qualifying professional services contracts: Clerk of the Board and District Attorney.

County Counsel should also to be commended for achieving a 100% award rate for qualifying purchasing transactions.

Department/Activity	Total # of ALL Contracts	Total # of SBE Contracts	SBE Percent of Total	Total Dollar Value of ALL Contracts	Total Dollar Value of SBE Contracts	SBE Percent of Total
<b>Clerk Recorder - Elections</b>						
Professional/Personal Services	14	5	35.7%	\$230,398	\$164,711	71.5%
Purchasing Transactions	31	13	41.9%	\$385,285	\$260,173	67.5%
<b>Conservation and Development</b>						
Professional/Personal Services	8	6	75%	\$310,945	\$190,945	61.4%
<b>County Administrator - Clerk of the Board</b>						
Professional/Personal Services	2	2	100%	\$146,080	\$146,080	100%
<b>District Attorney</b>						
Professional/Personal Services	1	1	100%	\$88,943	\$88,943	100%
<b>Probation</b>						
Professional/Personal Services	37	14	37.8%	\$314,407	\$158,137	50.3%
<b>Agriculture</b>						
Purchasing Transactions	10	5	50%	\$133	\$80	60.2%
<b>County Counsel</b>						
Purchasing Transactions	1	1	100%	\$5,902	\$5,902	100%
<b>Treasurer – Tax Collector</b>						
Purchasing Transactions	13	4	30.8%	\$125,321	\$71,025	56.7%

### E-Outreach Report

In order to encourage the use of small, local, and disadvantaged businesses, the County's E-Outreach Program requires bids and Request for Proposals greater than \$10,000 to be solicited online. For this period, there were 27 bids totaling \$12,771,923 that fell within the parameters of the program.

The data specific to electronic solicitations is developed and provided by the Purchasing Division of the Public Works Department, and reflects outreach to small, women-owned, minority-owned, local, disabled veteran-owned, and disadvantaged business enterprises. During this reporting period, 27 bids were conducted using the BidSync e-outreach site. Notifications were sent to

121,984 businesses, of which 30.4% are considered a small, local, or disadvantaged business enterprises.

E-Outreach July 1, 2020 – December 31, 2020

Number of Solicitations	27
Total Notifications	121,984
Dollar Value	\$12,771,923

<b>BUSINESS CATEGORY</b>	<b>Notifications</b>	<b>Percentage of Total</b>
MBE - Minority Business Enterprise	7,084	6.2%
WBE - Women Business Enterprise	6,424	5.3%
SBE - Small Business Enterprise	20,369	14.5%
LBE - Local Business Enterprise	1,140	0.7%
DVBE - Disabled Veteran Business Enterprise	116	0.1%
DBE – Disadvantaged Business Enterprise	6,083	3.6%
<b>Total</b>	<b>41,216</b>	<b>30.4%</b>

Local Business Preference

For opportunities exceeding \$25,000, the Local Business Preference Program allows for local businesses to submit a new offer if within 5% of the lowest bidder. There were no instances of the Bid Preference utilized in this reporting period.

Dollar Value Awarded to Local and Bay Area Businesses

The dollar value of Purchase Orders issued for the period was \$20,008,707. The dollar value awarded to Contra Costa County businesses was \$3.6 million. The value awarded to other Bay Area businesses was 23.1% or \$4.6 million. This represents Contra Costa County's contribution to the local economy.

Contra Costa County	\$3,683,089	18.4%
Other Bay Area Counties	\$4,631,222	23.1%
Other	\$11,694,396	58.5%
<b>Total</b>	<b>\$20,008,707</b>	<b>100%</b>

Conclusion

The County has demonstrated continued commitment to achieving the 50% goal for participation by SBE firms in contract and purchasing activities. While the data for some departments is below this threshold, departments are showing interest in increasing the percentage of awarded contracts. Instruction is being provided on the search features of the purchasing system, to assist in identifying businesses in the small, local, women, minority, veteran and disadvantaged business categories.

Recommendation(s)/Next Step(s):

ACCEPT the Small Business Enterprise, Outreach, and Local Bid Programs Report, reflecting departmental program data for the period July 1 through December 31, 2020.

Fiscal Impact (if any):

None. This is an informational report.

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## **Attachments**

Attachment A: SBE Report Jul-Dec 2020

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**ATTACHMENT A**  
**SMALL BUSINESS ENTERPRISE - Program Activity report**  
**July - December 2020**

Reporting Period:

	Total # of <b>ALL</b> contracts	Total # of <b>SBE</b> contracts	SBE percent of Total # of contracts	Total dollar value of <b>ALL</b> contracts	Total dollar value of <b>SBE</b> contracts	SBE percent of Total contracts value	
<b>Agriculture *</b>							
Professional/Personal services contracts	5	2	40.0%	\$35,000	\$14,000	40.0%	
Purchasing Transactions	10	5	50.0%	\$133	\$80	<b>60.2%</b>	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Animal Services</b>							
Professional/Personal services contracts	33	17	51.5%	\$1,576,909	\$526,800	33.4%	
Purchasing Transactions	40	9	22.5%	\$407,785	\$40,909	10.0%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Assessor</b>							
Professional/Personal services contracts	0	0	0.00%	\$0	\$0	0.0%	
Purchasing Transactions	14	1	7.14%	\$94,329	\$9,999	10.6%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Auditor-Controller</b>							
Professional/Personal services contracts	0	0	0.0%	\$0	\$0	0.0%	
Purchasing Transactions	0	0	0.0%	\$0	\$0	0.0%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Clerk Recorder-Elections*</b>							
Professional/Personal services contracts	14	5	35.7%	\$230,398	\$164,711	<b>71.5%</b>	
Purchasing Transactions	31	13	41.9%	\$385,285	\$260,173	<b>67.5%</b>	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Conservation and Development *</b>							
Professional/Personal services contracts	8	6	75.0%	\$310,945	\$190,945	<b>61.4%</b>	
Purchasing Transactions	0	0	0.0%	\$0	\$0	0.0%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>County Administrator's Office - Administration</b>							
Professional/Personal services contracts	5	0	0.0%	\$412,800	\$0	0.0%	
Purchasing Transactions	2	0	0.0%	\$60,000	\$0	0.0%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>County Administrator's Office - Reentry &amp; Justice</b>							
<b>ORJ REPORTED WITH PROBATION</b>							



**ATTACHMENT A**  
**SMALL BUSINESS ENTERPRISE - Program Activity report**  
**July - December 2020**

Reporting Period:

	Total # of <u>ALL contracts</u>	Total # of <u>SBE contracts</u>	SBE percent of <u>Total # of contracts</u>	Total dollar value <u>of ALL contracts</u>	Total dollar value <u>of SBE contracts</u>	SBE percent of <u>Total contracts value</u>	
<b>County Administrator's Office - Clerk of the Board *</b>							
Professional/Personal services contracts	2	2	100.0%	\$146,080	\$146,080	<b>100.0%</b>	
Purchasing Transactions	4	1	25.0%	\$101,630	\$630	0.6%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>County Administrator's Office - Communications and Media</b>							
Professional/Personal services contracts	0	0	0.0%	\$0	\$0	0.0%	
Purchasing Transactions	3	2	66.7%	\$62,425	\$13,568	21.7%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>County Administrator's Office - Dept. of Information Technology (DoIT)</b>							
Professional/Personal services contracts	1	0	0.0%	\$18,500	\$0	0.0%	
Purchasing Transactions	64	10	15.6%	\$1,570,023	\$321,476	0.0%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Dept. Child Support Services (DCSS)</b>							
Professional/Personal services contracts	0	0	0.0%	\$0	\$0	0.0%	
Purchasing Transactions	10	1	10.0%	\$95,985	\$1,500	1.6%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>County Counsel *</b>							
Professional/Personal services contracts	0	0	0.0%	\$0	\$0	0.0%	
Purchasing Transactions	1	1	100.0%	\$5,902	\$5,902	<b>100.0%</b>	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>District Attorney *</b>							
Professional/Personal services contracts	1	1	100.0%	\$88,943	\$88,943	<b>100.0%</b>	
Purchasing Transactions	19	8	42.1%	\$141,809	\$41,403	29.2%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Employment and Human Services</b>							
Professional/Personal services contracts	13	6	46.2%	\$665,750	\$299,575	45.0%	
Purchasing Transactions	76	37	48.7%	\$786,879	\$348,107	44.2%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	

**ATTACHMENT A**  
**SMALL BUSINESS ENTERPRISE - Program Activity report**  
**July - December 2020**

Reporting Period:

	Total # of <b>ALL</b> contracts	Total # of <b>SBE</b> contracts	SBE percent of Total # of contracts	Total dollar value of <b>ALL</b> contracts	Total dollar value of <b>SBE</b> contracts	SBE percent of Total contracts value	
<b>Fire Protection District</b>							
Professional/Personal services contracts	3	1	33.3%	\$141,000	\$25,000	17.7%	
Purchasing Transactions	14	4	28.6%	\$539,457	\$98,223	18.2%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Health Services</b>							
Professional/Personal services contracts	181	81	44.8%	\$8,153,725	\$3,808,457	46.7%	
Purchasing Transactions	266	43	16.2%	\$5,707,276	\$873,043	15.3%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Human Resources</b>							
Professional/Personal services contracts	5	0	0.0%	\$378,973	\$0	0.0%	
Purchasing Transactions	6	1	16.7%	\$83,295	\$3,494	4.2%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Library</b>							
Professional/Personal services contracts	5	2	40.0%	\$258,626	\$52,635	20.4%	
Purchasing Transactions	15	5	33.3%	\$74,057	\$14,960	20.2%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Probation * - Includes ORJ Data</b>							
Professional/Personal services contracts	37	14	37.8%	\$314,407	\$158,137	<b>50.3%</b>	
Purchasing Transactions	40	16	40.0%	\$529,081	\$174,735	33.0%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Public Defender</b>							
Professional/Personal services contracts	5	1	20.0%	\$234,820	\$17,320	7.4%	
Purchasing Transactions	0	0	0.0%	\$0	\$0	0.0%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Public Works</b>							
Professional/Personal services contracts	61	12	19.7%	\$58,117,844	\$553,500	1.0%	
Purchasing Transactions	268	83	31.0%	\$9,238,035	\$1,657,583	17.9%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	

**ATTACHMENT A**  
**SMALL BUSINESS ENTERPRISE - Program Activity report**  
**July - December 2020**

Reporting Period:

	Total # of <u>ALL contracts</u>	Total # of <u>SBE contracts</u>	SBE percent of <u>Total # of contracts</u>	Total dollar value <u>of ALL contracts</u>	Total dollar value <u>of SBE contracts</u>	SBE percent of <u>Total contracts value</u>	
<b>Office of the Sheriff</b>							
Professional/Personal services contracts	17	2	11.8%	\$4,928,740	\$171,300	3.5%	
Purchasing Transactions	152	49	32.2%	\$4,124,042	\$1,405,447	34.1%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Treasurer - Tax Collector *</b>							
Professional/Personal services contracts	0	0	0.0%	\$0	\$0	0.0%	
Purchasing Transactions	13	4	30.8%	\$125,321	\$71,025	<b>56.7%</b>	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Veterans Services Office</b>							
Professional/Personal services contracts	0	0	0.0%	\$0	\$0	0.0%	
Purchasing Transactions	0	0	0.0%	\$0	\$0	0.0%	
Construction contracts	0	0	0.0%	\$0	\$0	0.0%	
<b>Total Activity Reported</b>							
Professional/Personal services contracts	391	152	<b>38.9%</b>	\$76,013,460	\$6,217,403	<b>8.2%</b>	
Purchasing Transactions	1008	293	<b>29.1%</b>	\$20,008,707	\$5,342,257	<b>26.7%</b>	
Construction contracts	0	0	<b>0.0%</b>	\$0	\$0	<b>0.0%</b>	



# Contra Costa County Board of Supervisors

## Subcommittee Report

### INTERNAL OPERATIONS COMMITTEE

6.

**Meeting Date:** 07/12/2021

**Subject:** REVIEW COUNTY ANTI-NEPOTISM/ANTI-FAVORITISM POLICY  
PERTAINING TO APPOINTMENTS TO ADVISORY BODIES FOR  
POSSIBLE MODIFICATION

**Submitted For:** Monica Nino, County Administrator

**Department:** County Administrator

**Referral No.:** IOC 21/5

**Referral Name:** Advisory Body Recruitment

**Presenter:** Julie DiMaggio Enea      **Contact:** Julie DiMaggio Enea (925)  
655-2056

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### **Referral History:**

#### **Referral**

At the April 12 IOC meeting, in the context of discussing the County's standard advisory body application form, the Committee directed staff to agendize for further discussion possible revision to Resolution No. 2011/55, which concerns eligibility of family members of County Supervisors for appointment to Board advisory bodies and commissions. Chair Andersen said she understood the context in which the original policy was created but thought the ban on familial relations might be too far reaching and should be reconsidered. She asked Board Chief Clerk Jami Morritt to consult other counties to see what policies they may have in this regard. Vice Chair Burgis suggested that only people with whom one shares a house should be ineligible.

#### **History:**

In May 2011, the Civil Grand Jury published a report entitled "Ethics and Transparency Issues in Contra Costa County", attached, alleging ethical breaches and nepotism by certain public officials. Also attached is the County's response to that report.

The grand jury's allegation of nepotism centered on a Board recommendation to appoint the spouse of a sitting County Supervisor to a special district board, making that spouse eligible to retain a seat on the Local Agency Formation Commission (LAFCo), a body which regulates county boundaries. Ultimately, the Board referred a recruitment process to an impartial outside panel, which recommended appointment of a different individual than the Supervisor's spouse.

Subsequently, the Board of Supervisors adopted an anti-nepotism policy (Resolution No. 2011/55) that prohibits appointment by Board members of relatives, domestic partners, and individuals with shared business interests to county advisory bodies, a decision which was lauded by the grand jury. The grand jury further recommended that the County adopt a policy requiring

the formation of impartial selection committees in situations where there are conflicts of interest, real or perceived, that cannot be adequately addressed by a normal recusal process. The Board had previously implemented this recommendation with adoption of Resolution No. 2002/377 (later updated to Resolution No. 2020/1), which provides that a screening committee may be selected to assist the Board, or a member of the Board, in the interview and selection of applicants for appointment.

Ten years has elapsed since the anti-nepotism/anti-favoritism policy was adopted, and it is appropriate for IOC to review this policy and adjust it as needed. Following is the text of the policy, as adopted in 2011:

*I. SCOPE: This policy applies to appointments to any seats on boards, committees or commissions for which the Contra Costa County Board of Supervisors is the appointing authority.*

*II. POLICY: A person will not be eligible for appointment if he/she is related to a Board of Supervisors' Member in any of the following relationships:*

- 1. Mother, father, son, and daughter;*
- 2. Brother, sister, grandmother, grandfather, grandson, and granddaughter;*
- 3. Great-grandfather, great-grandmother, aunt, uncle, nephew, niece, great-grandson, and great-granddaughter;*
- 4. First cousin;*
- 5. Husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepson, and stepdaughter;*
- 6. Sister-in-law (brother's spouse or spouse's sister), brother-in-law (sister's spouse or spouse's brother), spouse's grandmother, spouse's grandfather, spouse's granddaughter, and spouse's grandson;*
- 7. Registered domestic partner, pursuant to California Family Code section 297.*
- 8. The relatives, as defined in 5 and 6 above, for a registered domestic partner.*
- 9. Any person with whom a Board Member shares a financial interest as defined in the Political Reform Act (Gov't Code §87103, Financial Interest), such as a business partner or business associate.*

*Candidates shall identify on the standard County application form any of the above-specified relationships with a Board of Supervisors member.*

### **Referral Update:**

Board Chief Clerk Jami Morritt reached out to all the Bay Area counties. San Mateo, San Francisco, Sonoma, Alameda and Marin reported having no comparable policy.

For purposes of avoiding legally cognizable conflicts of interest, sections 2, 3, 4 and 6 could all be omitted for all bodies. These groups are not family for purposes of the Political Reform Act. The Act considers only the spouse and dependent children to be immediate family. In addition, section 8 would still prohibit appointment of a member who had a financial interest with anyone in group 2, 3, 4 or 6.

For purposes of avoiding nepotism or appearance thereof, appointment to County advisory bodies

of family members or others who have a close relationship to a County Supervisor is a matter of policy and within the discretion of the Board of Supervisors.

**Recommendation(s)/Next Step(s):**

Staff recommends:

1. omitting 3, 4 and 6 for all bodies. Those relationships seem fairly attenuated;
2. retaining all other restrictions because they represent close family members of Supervisors;  
and
3. omitting the same groups across all bodies, for ease of administration and compliance.

**Fiscal Impact (if any):**

No fiscal impact.

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**Attachments**

GJ Report 1105 re Nepotism/Favoritism

County Response to GJ Report 1105

Board Order Transmittal Reso 2011/55 Anti-Nepotism Policy

Res 2011-55 AS ADOPTED POLICY CONCERNING THE ELIGIBILITY OF BOARD OF SUPERVISORS'  
FAMILY MEMBERS FOR APPOINTMENT TO BOARDS, COMMITTEES AND COMMISSIONS

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A REPORT BY  
THE 2010-2011 CONTRA COSTA COUNTY GRAND JURY

725 Court Street  
Martinez, California 94553

REPORT 1105

**Ethics and Transparency Issues in Contra Costa County**


APPROVED BY THE GRAND JURY:

Date: MAY 4, 2011

  
LINDA L. CHEW  
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 5/16/11

  
JOHN LAETTNER  
JUDGE OF THE SUPERIOR COURT





Contact: Linda Chew  
Foreperson  
(925)-567-9638

## Contra Costa County Grand Jury Report 1105

### **ETHICS AND TRANSPARENCY ISSUES IN CONTRA COSTA COUNTY**

**TO: Contra Costa County Board of Supervisors  
Contra Costa Local Agency Formation Commission  
Cities in Contra Costa County  
Independent Special Districts in Contra Costa County**

#### **SUMMARY**

Ethical behavior and transparency (openness) by public officials are essential to good government. Despite the fact that County officials receive ethics training, the Grand Jury has found instances of ethical breaches.

In some cases, there have been public accusations of ethical misbehavior and/or misrepresentation, charges of nepotism and cronyism, and allegations of long-term County mismanagement of a mitigation fund.

The Grand Jury believes that greater effort must be made to improve openness and accountability, to display more sensitivity to ethical considerations, and to be aware of any appearances of impropriety to the public.

#### **BACKGROUND**

Effective January 1, 2006, AB 1234 (Government Code Sections 53232, et seq.) required that local officials who receive compensation, salary, stipends, or expense reimbursements must receive training in public service ethics laws and principles. The requirement applies not only to the governing body of a local agency but also to members of commissions, committees, boards, or other local agency bodies, whether permanent or temporary, decision-making or advisory. Training must be renewed every two years.

According to the Fair Political Practices Commission and the California Attorney General, training regarding conflicts of interest, perquisites of office and governmental transparency should include the following:

(1) Laws relating to personal financial gain by public servants...

- (A) Laws prohibiting bribery (Pen. Code, § 68)
- (B) Conflicts of Interest under the Political Reform Act (Gov. Code, §§ 87100, 87103).
- (C) Contractual Conflicts of Interest (Gov. Code, § 1090 et seq.).
- (D) Conflicts of Interest and Campaign Contributions (Gov. Code, § 84308).
- (E) Conflicts of Interest When Leaving Office (Gov. Code, §§ 87406.3, 87407).

(2) Laws relating to claiming perquisites of office

(3) Government transparency laws

(4) Laws relating to fair processes

The Grand Jury has divided the remainder of this report into several sections. Each section contains its own findings and recommendations. An overall finding and recommendation has also been made that may apply to all agencies throughout the County.

## **LAFCO: SOME MEMBERS OVERSTEPPING THEIR BOUNDARIES**

### **BACKGROUND**

The Contra Costa Local Agency Formation Commission (LAFCO) reviews, approves, or disapproves changes in organization to cities and special districts including annexations, detachments, new formations and incorporations. Its members (commissioners) serve the entire county and are to be neutral decision makers. LAFCO commissioners are guided by a Commissioner's Handbook which states:

“Government Code Section 56325.1 states that while serving on the Commission all members shall exercise their independent judgment on behalf of the interests of residents, property owners and the public as a whole.”

In May, 2010, two LAFCO commissioners addressed a developer-sponsored local ballot measure to extend the Urban Limit Line of the City of Brentwood. Prior to the election, these commissioners signed a public letter indicating that they were speaking not only as LAFCO spokespeople, but as representatives of the Contra Costa County Mayors' Conference, their appointing agency. They stated that should Brentwood voters defeat Measure F, LAFCO could annex the land in question to Antioch. Further, certain other LAFCO commissioners, instead of speaking to these statements, chose to weigh in supportively on the **content** of the letter, when the matter was not before LAFCO. The measure failed, and both LAFCO and the Mayors' Conference took some action to address this.

LAFCO stated that its procedures do not allow for reprimand or removal of offenders, but inserted new language into the Commissioner's Handbook (1.4 Rules and Procedures – Section F.5) which details when a commissioner may act as a spokesperson.

The Mayors' Conference, while voting (12-4) not to remove the involved commissioners, issued an admonishment, and adopted an amendment to the Conference Policies and Procedures statement prohibiting individual positions from being expressed as representative of the will of the Conference. In its motion, the Mayors' Conference stated that it "is not in the business of taking issues on individual matters, especially when pitting one city against another."

The Grand Jury recognizes that some corrective actions have been taken. However, some LAFCO members weighed in favorably on the import of the letter. While LAFCO had the option to recommend removal to the offending members' appointing authority for "malfeasance of office" (Commissioner Handbook 1.2), it did not do so.

## **FINDINGS**

1. Some LAFCO members committed ethical breaches by indicating that they spoke on behalf of LAFCO and the Mayors' Conference on matters not before LAFCO.
2. Certain other LAFCO members weighed in inappropriately on the statements.

## **RECOMMENDATIONS**

1. All LAFCO members, including the public member, should receive regular training per AB 1234\*, on the LAFCO Commissioners Handbook with particular focus on LAFCO's mission statement and ethics, as well as the Updated Commissioner Representation policy (1.4 Rules and Procedures – Section F.5).
2. LAFCO should promptly consider appropriate action when a violation of its policies occurs.

### **\*AB 1234 - Local Officials Ethics Training Requirement**

The newest of these ethics training requirements applies to certain local public officials. While similar to the rules for state officials that have been in place since 1998, the rules applicable to local officials are different in content, including a requirement that these officials receive training not only in applicable ethics laws but also in ethics principles and agency rules.

## NEPOTISM ALIVE IN CEMETERY DISTRICT

### BACKGROUND

**Nepotism** is favoritism (as in appointment to a job) based on kinship.<sup>1</sup>

**Nepotism** undermines public trust by making government look like a family business run not for the community, but for the families in power.<sup>2</sup>

The Contra Costa County Board of Supervisors (BOS) makes appointments to certain special district boards. Each Supervisor recommends appointments for their respective district, after public notice of vacancy and interviews of applicants have been completed.

Recently, when a Supervisor's spouse sought an opening on the board of a small cemetery district, this notice and interview process was not initially followed. As a result, there was significant public reaction to the appearance of nepotism.

The spouse of one Supervisor sat on LAFCO, which regulates County boundaries. A prerequisite for this person's inclusion on LAFCO was being on the board of a special district. This person's current special district membership was ending soon and he sought a special district slot elsewhere.

In violation of California's Maddy Act (Gov. Code Section 54970-54974) the Clerk of the Board failed to advertise/post this opening to the public. As a result, several interested candidates were not considered or interviewed. The Supervisor self-recused and another Supervisor recommended appointment of the spouse. Ultimately, the BOS referred the process to an impartial outside panel, so as to avoid any real or perceived conflict-of-interest. The position was then advertised and applications from eight people were received.

After an interview process, a different individual was recommended by the special panel and was appointed by the BOS.

Subsequently, the BOS adopted an anti-nepotism policy that prohibits appointment by BOS members of relatives, domestic partners, and individuals with shared business interests to Boards, Councils, and Advisory Panels.

<sup>1</sup> Merriam-Webster Dictionary

<sup>2</sup> Robert Wechsler  
Director of Research, City Ethics  
<http://www.cityethics.org/node/811>

### FINDINGS

1. There was a failure to advertise/post the open position, in compliance with the Maddy Act.

2. The initial recommendation to appoint the spouse of the Supervisor for the open special district position was not consistent with the appointment procedure.
3. At a minimum, these improprieties created the appearance of nepotism.
4. The formation of an outside, impartial panel to interview and select an applicant was appropriate.
5. The adoption of a County anti-nepotism policy was proper.

## **RECOMMENDATIONS**

1. The County should adopt a policy requiring the formation of impartial selection committees in situations where there are conflicts of interest, real or perceived, that cannot be adequately addressed by a normal recusal process.

## **THE DECOMPOSING OF THE KELLER CANYON MITIGATION FUND**

### **BACKGROUND**

The Keller Canyon Mitigation Fund (KCMF) was established in 1992 to lessen the impacts of an East County landfill on roads, open space, and the surrounding community. Funds are generated through dumping fees and granted through an application process. Approximately \$14 million has been awarded over the past ten years.

In 2005, the BOS voted to eliminate the Finance Committee oversight of the KCMF. Since then the District Supervisor, the Supervisor's Chief-of-Staff, and a County employee comprise the KCMF Committee, and have had discretion in the awarding of grants. Eligible recipients of grants have expanded from those who were truly impacted by the landfill to any non-profit groups the KCMF Committee deems eligible.

In 2010, a group of concerned citizens complained about irregularities with the KCMF's operations. The group conveyed its concerns to various County agencies. Among these were:

- KCMF is being used illegally as a political "slush fund."
- KCMF lacks required grantee and management paperwork (applications, work plans, progress reports, etc.).
- Substantial expenditures are being made outside of the intent and guidelines of the KCMF, often without required BOS approval.

The Contra Costa County Auditor-Controller's office addressed the charges in its November 5, 2010, "Response to Allegations Concerning the Keller Canyon Mitigation Fund" Report (Auditor's report).

A fraud audit was not performed. However, it was determined that the "internal control environment of the KCMF is seriously deficient" and that because of this there is "a possibility of fraud and abuse". In addition, it was determined that over the last 10 years, \$634,372 was spent without required BOS approval, and that since 2005, when BOS Finance Committee oversight ended, the fund has had a deficit in each of the following years.

The Auditor's report detailed some problem areas with the fund and recommended, among other goals, restoring transparency, accountability, and public confidence in county governance with regard to the KCMF.

One recommendation calls for establishment of an ethics policy and training for KCMF Committee members. This recommendation, which "includes a recusal provision," seeks to eliminate numerous instances where KCMF Committee members also sit on boards of grantee organizations.

At the time this Grand Jury report was written, the BOS had instructed the Finance Committee to review the Auditor's Report and its recommendations.

## FINDINGS

1. Proper oversight of the KCMF by the BOS is lacking, which provides opportunity for impropriety.
2. The KCMF has distributed grants without the required applications, work plans, and follow-up reports.
3. The KCMF, as currently administered, is not transparent, and lends itself to a perception of being a "political slush fund," (defined as "A sum of money used for illicit or corrupt purposes, as for buying influence." (Webster's New Universal Unabridged Dictionary)).
4. Ethical concerns are raised when grants are awarded to organizations whose boards include members of the granting committee.
5. Despite the fact that \$14 million has been distributed over the past ten years, no annual report has been issued. At the time of the writing of this report, no County-linked website to the KCMF could be found.
6. Due to a lack of publicly available information about the KCMF, not all non-profit organizations, nor the public, are aware of the fund, its mission, and its processes, and thus are unable to benefit from it.

## **RECOMMENDATIONS**

1. The BOS should direct the County Administrator's Office to more closely monitor the KCMF activity and ensure compliance with BOS approval requirements, as well as application, work plan and performance reporting requirements.
2. The BOS should require training on and compliance with a County ethics policy for all KCMF Committee members.
3. An annual report for the KCMF should be issued, and a County-linked website should be established to clarify mission, application and selection process and requirements.
4. The BOS should consider re-establishing the Finance Committee oversight of grant awards.
5. The BOS should ensure that all County mitigation funds, or similar funds under the control of a single Supervisor, receive proper supervision.

## **OVERALL FINDING**

The Grand Jury finds that:

1. Avoiding the appearance of unethical behavior especially with regard to conflicts-of interest and nepotism, is crucial to public confidence in governance.

## **OVERALL RECOMMENDATION**

1. Each of the 19 cities, 28 independent special districts and the County should review and report to the Grand Jury on the adequacy of its:
  - a) nepotism policy;
  - b) conflict-of-interest policy; and
  - c) ethics training policy.

## **REQUIRED RESPONSES**

### **LAFCO section**

#### **Findings and Recommendations**

Local Agency Formation Commission

1, 2

## **NEPOTISM section**

### **Findings**

Contra Costa County Board of Supervisors 1-5

### **Recommendations**

Contra Costa County Board of Supervisors 1

## **KELLER CANYON section**

### **Findings**

Contra Costa County Board of Supervisors 1-6

### **Recommendations**

Contra Costa County Board of Supervisors 1-5

### **Overall Finding and Recommendation**

#### **Finding and Recommendation**

Contra Costa County Board of Supervisors 1

## **REQUESTED RESPONSES**

### **Overall Finding and Recommendation**

#### **Finding and Recommendation**

The cities of: Antioch, Brentwood, Clayton, Concord, Danville, El Cerrito, Hercules, Lafayette, Martinez, Moraga, Oakley, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo, San Ramon and Walnut Creek 1

#### **Independent Special Districts:**

Crockett Community Services District, Diablo Community Services District, Discovery Bay Community Services District, Kensington Police Protection and Community Services District, Knightsen Town Community Services District, Kensington Fire Protection District, Moraga-Orinda Fire District, Rodeo-Hercules Fire Protection District, San Ramon Valley Fire Protection District, Los Medanos Community Healthcare District, Mt. Diablo Healthcare District, West Contra Costa County Healthcare District, Byron-Bethany Irrigation District, East Contra Costa Irrigation District, Bethel Island Municipal Improvement District, Ambrose Recreation and Park District, Green Valley Recreation and Park District, Pleasant Hill Recreation and Park District, Rollingwood-Wilart Park Recreation and Park District, Byron Sanitary District, Central Contra Costa Sanitary District, Ironhouse Sanitary District, Mt. View Sanitary District, Rodeo Sanitary District, Stege Sanitary District, West County Wastewater District, Contra Costa Water District and Diablo Water District, Byron-Brentwood-Knightesen Union Cemetery District 1



**CONTRA COSTA COUNTY CIVIL GRAND JURY REPORT NO. 1105  
"ETHICS AND TRANSPARENCY ISSUES IN CONTRA COSTA COUNTY"**

**BOARD OF SUPERVISORS RESPONSE**

**SECTION 2: "NEPOTISM ALIVE IN CEMETERY DISTRICT"**

**FINDINGS** - *Section 933.5(a) requires a response to the designated findings of the Grand Jury.*

**1. There was a failure to advertise/post the open position, in compliance with the Maddy Act.**

Response: Partially agree. In compliance with the Maddy Act of 1975 and Board Resolution No. 2002-377 "Board Advisory Body Procedures", the Board of Supervisors declared the Cemetery District seat vacant on August 10, 2010 (Attachment A) and directed the Clerk of the Board to post the vacancy. The Clerk is required to post unscheduled vacancies such as this one "...within 20 days after the vacancy occurs" (Attachment B). The Clerk of the Board did post the vacancy as ordered by the Board; however, the date of the posting was September 9, 2010, which was beyond the time requirements specified in state law and Board policy.

**2. The initial recommendation to appoint the spouse of the Supervisor for the open special district position was not consistent with the appointment procedure.**

Response: Disagree. The Board policy governing appointment procedures provides that nominating authority for certain District appointments is the responsibility of individual District Supervisors (Attachment B). In the case of the Cemetery District appointment, the District III Supervisor has the responsibility to nominate an applicant for appointment to the Board of Supervisors. In the case of this appointment, the District III Supervisor recused herself from both the interview and nomination process after her spouse had indicated his interest in applying for the vacant seat. The Board then acted to appoint a separate Supervisor to act on behalf of the full Board and carry out the interview and nomination process, returning with a recommendation to fill the vacant seat.

**3. At a minimum, these improprieties created the appearance of nepotism.**

Response: Disagree. The Board of Supervisors' decision to appoint a separate Supervisor to oversee the interview and nomination process and the District III Supervisor's recusal were undertaken specifically to ensure that the appearance of nepotism did not occur.

**4. The formation of an outside, impartial panel to interview and select an applicant was appropriate.**

Response: Agree.

**5. The adoption of a County anti-nepotism policy was proper.**

Response: Agree.

**RECOMMENDATIONS** - *Section 933.05(b) requires a response to the designated recommendations of the Grand Jury.*

**1. The County should adopt a policy requiring the formation of impartial selection committees in situations where there are conflicts of interest, real or perceived, that cannot be adequately addressed by a normal recusal process**

Response: The recommendation has been implemented and is being publicized. Section I(1) of Resolution No. 2002/377 "Board Advisory Body Procedures" (Attachment B), provides that, "A screening committee may be selected to assist the Board, or a member of the Board, in the interview and selection of applicants for appointment". This section has been reviewed by the Internal Operations Committee, which has determined that this policy is sufficient and should remain in force.

In February 2011, the Board of Supervisors adopted an anti-nepotism and anti-favoritism policy (Attachment C) for purposes of evaluating Board appointment requests. This is the only policy of its kind known to exist within the nine Bay Area counties and is more stringent than specifications outlined in the Maddy Act. The policy is attached to all applications for Board appointments and can be found by the public on the county website in the Board of Supervisors section.

### **SECTION 3: "DECOMPOSING THE KELLER CANYON MITIGATION FUND"**

**FINDINGS** - *Section 933.5(a) requires a response to the designated findings of the Grand Jury.*

**1. Proper oversight of the KCMF by the BOS is lacking, which provides opportunity for impropriety.**

Response: Disagree. The Board of Supervisors makes an annual appropriation of KCMF funds during the annual budget process. In addition, prior to policy enhancements to the KCMF allocation process approved by the Board of Supervisors on May 24, 2011 (*Attachment D*), the District V Supervisor would submit an allocation plan to the Board of Supervisors each fiscal year for consideration and approval. The 2010/11 KCMF allocation plan, as approved by the Board of Supervisors, is included for reference (*Attachment E*)

**2. The KCMF has distributed grants without the required applications, work plans, and follow-up reports.**

Response: Agree.

**3. The KCMF, as currently administered, is not transparent, and lends itself to a perception of being a "political slush fund," (defined as "A sum of money used for illicit or corrupt purposes, as for buying influence." (Webster's New Universal Unabridged Dictionary)).**

Response: Disagree. Prior to policy enhancements to the KCMF Allocation Process approved by the Board of Supervisors on May 24, 2011 (*Attachment D*), the District V Supervisor would submit an allocation plan to the Board of Supervisors each fiscal year for approval. A copy of the 2010/11 allocation plan, as approved by the Board of Supervisors, is included for reference (*Attachment E*).

**4. Ethical concerns are raised when grants are awarded to organizations whose boards include members of the granting committee.**

Response: Agree. To address real or perceived conflicts of interest, the Board of Supervisors approved Resolution No. 2002/376 "*Policy for Board Appointees Governing Conflict of Interest & Open Meetings*" (*Attachment F*), which revised the Conflict of Interest policy for certain Board appointees to local appointive bodies. In addition, Contra Costa County complies with Assembly Bill 1234 (Chapter 700, Statutes of 2005) which requires certain public officials to complete Ethics Training on a bi-annual basis.

**5. Despite the fact that \$14 million has been distributed over the past ten years, no annual report has been issued. At the time of the writing of this report, no County-linked website to the KCMF could be found.**

Response: Partially Disagree. The new Annual Report requirement was approved by the Board of Supervisors on May 24, 2011 (*Attachment D*). As of May 26, 2011, the date that the Grand Jury submitted Report No. 1105 to the Board of Supervisors, a county-linked website for the KCMF was active on the District V Supervisor's website.

**6. Due to a lack of publicly available information about the KCMF, not all non-profit organizations, nor the public, are aware of the fund its mission, and its processes, and thus are unable to benefit from it.**

Response: Partially Disagree. The Board of Supervisors makes an appropriation of KCMF funds during

the annual budget process. In addition, prior to policy enhancements to the KCMF allocation process approved by the Board of Supervisors on May 24, 2011 (*Attachment D*), the District V Supervisor would submit an allocation plan to the Board of Supervisors each fiscal year for approval. A copy of the 2010/11 allocation plan, as approved by the Board of Supervisors, is included for reference (*Attachment E*).

**RECOMMENDATIONS** - Section 933.05(b) requires a response to the designated recommendations of the Grand Jury.

**1. The BOS should direct the County Administrator's Office to more closely monitor the KCMF activity and ensure compliance with BOS approval requirements, as well as application, work plan and performance reporting requirements.**

Response: The recommendation will not be implemented. The Finance Committee reviewed the KCMF grant process and made policy enhancement recommendations to the Board of Supervisors. The recommendations were approved by the Board of Supervisors on May 24, 2011 (*Attachment D*) and have been implemented.

**2. The BOS should require training on and compliance with a County ethics policy for all KCMF Committee members.**

Response: The recommendation has been implemented. On April 14, 2011, the Board of Supervisors approved a recommendation from the Finance Committee to establish the "Keller Canyon Mitigation Fund Review Committee" (*Attachment G*). The Committee members, once appointed, are required to complete a conflict of interest training program pursuant to Section 3 of Resolution No. 2002/376 "Policy for Board Appointees Governing Conflict of Interest & Open Meetings" (*Attachment F*).

**3. An annual report for the KCMF should be issued, and a County-linked website should be established to clarify mission, application and selection process and requirements.**

Response: The recommendation has been implemented. On May 24, 2011, the Board of Supervisors adopted several policies, as recommended by the Finance Committee, governing the use of Keller Canyon Mitigation funds (*Attachment D*). Section II(E) of the policy requires that an Annual Report be filed with the Board of Supervisors no later than September 30<sup>th</sup> of each year for the prior fiscal year. Section II(A) of the policy requires that information regarding the KCMF grant process be posted on the District V and County websites.

**4. The BOS should consider re-establishing the Finance Committee oversight of grant awards.**

Response: The recommendation will not be implemented. The Finance Committee reviewed the KCMF grant process and made policy enhancement recommendations to the Board of Supervisors. The recommendations were approved by the Board of Supervisors on May 24, 2011 (*Attachment D*) and have been implemented.

**5. The BOS should ensure that all County mitigation funds, or similar funds under the control of a single Supervisor, receive proper supervision.**

Response: The recommendation has been implemented. In December 2008, the Board of Supervisors referred the issue of County Special Revenue Funds to the Internal Operations Committee for review and potential establishment of a protocol for allocating funding from such funds. After several months

of study, the IOC referred a draft Special Revenue Policy to the Finance Committee for review in August 2009. In December 2009, the Board of Supervisors approved a policy statement affirming that responsibility for administration of Special Revenue funds was to remain with the Supervisor of the District in which the revenue was generated (*Attachment H*).

## OVERALL FINDINGS

**1. Avoiding the appearance of unethical behavior especially with conflicts of interest and nepotism, is crucial to public confidence in governance.**

Response: Agree.

## OVERALL RECOMMENDATIONS

**1. Each of the 19 cities, 28 independent special districts and the County should review and report to the Grand Jury on the adequacy of its:**

- a) nepotism policy;**
- b) conflict of interest policy; and**
- c) ethics training policy.**

Response: The recommendation has been implemented. The Board of Supervisors makes the following determinations regarding the adequacy of each policy outlined above:

a) Nepotism Policy: On October 26<sup>th</sup>, 2010, a report from the Public Protection Committee to the Board of Supervisors noted that Committee staff did not find a policy prohibiting family members of Supervisors from being appointed to local committees, commissions, or bodies in the neighboring nine Bay Area counties (*Attachment I*). The Board of Supervisors approved Resolution No. 2011/55 (*Attachment C*) prohibiting family members of Supervisors from receiving such appointments and is thus the only county in the Bay Area known to have such a policy.

b) & c) Conflict of Interest and Ethics Policies: In 2002, the Board of Supervisors approved Resolution No. 2002/376 "*Policy for Board Appointees Governing Conflict of Interest & Open Meetings*" (*Attachment G*), which revised the Conflict of Interest policy for certain Board appointees. In addition, Contra Costa County complies with Assembly Bill 1234 (Chapter 700, Statutes of 2005) which requires certain appointees to local legislative bodies (committees, commissions, and advisory bodies) to complete Ethics Training on a bi-annual basis.



**Contra  
Costa  
County**

To: Board of Supervisors  
From: PUBLIC PROTECTION COMMITTEE  
Date: February 8, 2011

Subject: POLICY CONCERNING THE ELIGIBILITY OF BOARD OF SUPERVISORS' FAMILY MEMBERS FOR APPOINTMENT TO BOARDS, COMMITTEES AND COMMISSIONS

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**RECOMMENDATION(S):**

1. ADOPT Resolution No. 2011/55, making family members of the Board of Supervisors ineligible for appointment to boards, committees or commissions for which the Board of Supervisors is the appointing authority.
2. DIRECT the County Administrator and Clerk of the Board to provide a copy of this policy whenever the County's Boards, Committees and Commissions Application Form is provided, and on the County's webpage for Board Advisory Bodies.

**FISCAL IMPACT:**

No fiscal impact.

**BACKGROUND:**

In July 2010, a vacancy occurred on the Byron-Brentwood-Knighten Union Cemetery District (BBKUCD) Board of Trustees and, following recruitment, David Piepho, who is the husband of Supervisor Mary Piepho applied. Supervisor Piepho subsequently recused herself from the process and, on September 14, 2010, the Board of Supervisors

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<input checked="" type="checkbox"/> APPROVE	<input type="checkbox"/> OTHER
<input checked="" type="checkbox"/> RECOMMENDATION OF CNTY ADMINISTRATOR	<input type="checkbox"/> RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **02/08/2011** ☐ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes: See Addendum

**VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Gayle B. Uilkema, District II Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

NO: Mary N. Piepho, District III Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 8, 2011

, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: JULIE ENEA (925)  
335-1077

## BACKGROUND: (CONT'D)

referred the matter to the Public Protection Committee (PPC) to discuss the issue of whether to develop a policy regarding the appointment of family members to boards and commissions and to consider the appointment process to fill the current BBKUCD Board vacancy.

After failing to properly announce the BBKUCD Board vacancy pursuant to the Maddy Act, the Clerk of the Board's office re-opened a recruitment on September 22, 2010 and extended the application deadline for the seat to October 12, 2010. A total of ten applications were received; two of the applicants withdrew from the process, leaving eight remaining applicants.

The PPC considered the Board of Supervisors' referral at its regular meeting on October 18, 2010. The PPC received a substantial amount of written and oral public testimony on the spirit of the Maddy Act and in support of the various candidates. The PPC limited its discussion to the process to be used to fill the BBKUCD Board vacancy and the broader policy issue of permitting Supervisors' family members to serve on Board advisory bodies, committees, and commissions or other public bodies for which the Board of Supervisors is the appointing authority. At that time, there was consensus among the Committee members that Supervisors' family members should not be automatically barred from participating on Board advisory bodies, committees, and commissions, but that nominations for appointment should result from an "arms length" process whenever a Supervisor's family member is a candidate. The Committee determined that, in the case of the Trustee 3 seat on the BBKUCD Board of Trustees, the nomination process should be delegated to a panel made up of subject matter experts from outside of Contra Costa County. The PPC took this recommendation to the Board of Supervisors on October 26, 2010, and the Board directed the County Administrator's Office to convene a panel of three individuals made up of trustees or district managers from cemetery districts outside of Contra Costa County, to evaluate candidates and nominate an individual to the Board of Supervisors, within 30 days, for appointment to the Trustee 3 seat on the BBKUCD Board.

The County Administrator's Office convened the interview panel on November 10 and, on November 23, submitted a recommendation to the Board of Supervisors for appointment to fill the BBKUCD vacancy, which the Board approved.

On November 30, staff suggested some options to the PPC for an impartial screening process for recruitments to boards, committees or commissions for which the Board is the appointing authority, when a Supervisor's family member is a candidate. The PPC decided, instead, that it would work to develop a policy to prohibit the candidacy of a Supervisor's family member to boards, committees or commissions for which the Board is the appointing authority, and requested staff to return in January with suggested policy language and a definition for "family member".

Staff provided a draft policy to the PPC at a public meeting on January 24, 2011. The policy, as modified by the PPC, is recommended to the Board today for adoption.

## CONSEQUENCE OF NEGATIVE ACTION:

## CHILDREN'S IMPACT STATEMENT:

## CLERK'S ADDENDUM

*Speakers: Ralph Hoffman, resident of Walnut Creek. ADOPTED Resolution No. 2011/55 making family members of the Board of Supervisors ineligible for appointment to boards, committees or commissions for which the Board of Supervisors is the appointing authority, as amended to: add first cousins in the list of relatives, remove reference to adopted children, revise references to domestic partners as 'Registered Domestic partners', and include relatives of domestic partners in the same manner as married partners (revised version attached); and DIRECTED the County Administrator and Clerk of the Board to provide a copy of this policy whenever the County's Boards, Committees and Commissions Application Form is provided, and on the County's webpage for Board Advisory Bodies.*

#### ATTACHMENTS

Resolution No. 2011/55

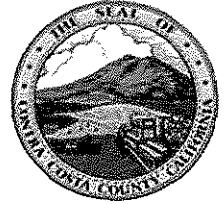
CC Committee Application Form 2011 Rev

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 02/08/2011 by the following vote:

AYES: 4 John Gioia  
Gayle B. Uilkema  
Karen Mitchoff  
Federal D. Glover  
NOES: 1 Mary N. Piepho  
ABSENT: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_  
RECUSE: \_\_\_\_\_



Resolution No. 2011/55

IN THE MATTER OF ADOPTING A POLICY MAKING FAMILY MEMBERS OF THE BOARD OF SUPERVISORS INELIGIBLE FOR APPOINTMENT TO BOARDS, COMMITTEES OR COMMISSIONS FOR WHICH THE BOARD OF SUPERVISORS IS THE APPOINTING AUTHORITY

WHEREAS the Board of Supervisors wishes to avoid the reality or appearance of improper influence or favoritism;

NOW, THEREFORE, BE IT RESOLVED THAT the following policy is hereby adopted:

I. SCOPE: This policy applies to appointments to any seats on boards, committees or commissions for which the Contra Costa County Board of Supervisors is the appointing authority.

II. POLICY: A person will not be eligible for appointment if he/she is related to a Board of Supervisors' Member in any of the following relationships:

1. Mother, father, son, and daughter;
2. Brother, sister, grandmother, grandfather, grandson, and granddaughter;
3. Great-grandfather, great-grandmother, aunt, uncle, nephew, niece, great-grandson, and great-granddaughter;
4. First cousin;
5. Husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepson, and stepdaughter;
6. Sister-in-law (brother's spouse or spouse's sister), brother-in-law (sister's spouse or spouse's brother), spouse's grandmother, spouse's grandfather, spouse's granddaughter, and spouse's grandson;
7. Registered domestic partner, pursuant to California Family Code section 297.
8. The relatives, as defined in 5 and 6 above, for a registered domestic partner.
9. Any person with whom a Board Member shares a financial interest as defined in the Political Reform Act (Gov't Code §87103, Financial Interest), such as a business partner or business associate.

Candidates shall identify on the standard County application form any of the above-specified relationships with a Board of Supervisors member.

Contact: JULIE ENEA (925) 335-1077

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 8, 2011

, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

cc: