



TOWN OF FAIRFAX

STAFF REPORT

March 3, 2021

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Approve response to 2019–2020 Marin County Civil Grand Jury Report entitled *Roadblocks to Safer Evacuation in Marin*

RECOMMENDATION

Approve the attached Response to the 2019-2020 Marin Civil Grand Jury Report entitled *Roadblocks to Safer Evacuation in Marin*.

DISCUSSION

The 2019-2020 Marin County Civil Grand Jury issued the report entitled, *Roadblocks to Safer Evacuation in Marin*, dated December 14, 2020. (Please see Attachment B.) The report seeks to determine whether Marin's evacuation needs are considered adequately when government entities plan and build improvements to roads and traffic infrastructure. The Town of San Fairfax is asked to respond to five (5) Findings and three (3) Recommendations. The Town is required to respond in writing to the Findings and Recommendations contained in the Marin County Civil Grand Jury Report, pursuant to Penal Code § 933.05, no later than 90 days after the issuance of the report (March 14, 2021).

The Town's proposed responses are attached, having been prepared in large part by Ross Valley Fire Chief Jason Weber.

FISCAL IMPACT

None

ATTACHMENTS

- A. Proposed Response to Grand Jury Report
- B. Grand Jury Report: *Roadblocks to Safer Evacuation in Marin*

RESPONSE TO GRAND JURY REPORT FINDINGS AND RECOMMENDATIONS

Report Title: Roadblocks to Safer Evacuation in Marin

Report Date: December 14, 2020

Response By: Town of Fairfax

Response Date: March 3, 2021

FINDINGS:

- We partially agree with the finding numbered **F5**.
- We partially disagree with the findings numbered: **F1, F2, F3, F4**.

RECOMMENDATIONS:

- Recommendation numbered **R1** has not yet been implemented but will be implemented in the future after MWPA has completed its work on evacuation routes.
- Recommendations numbered **R2 and R3** will not be implemented because they are not warranted or reasonable.

Date: _____

Signed: _____
Garrett Toy, Town Manager

Number of pages attached: 4

ATTACHMENT

RESPONSE OF THE TOWN OF FAIRFAX TO GRAND JURY REPORT ROADBLOCKS TO SAFER EVACUATION IN MARIN

FINDINGS AND RESPONSES

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

Response: Partially disagree. No single agency or jurisdiction carries full responsibility - the responsibility is shared because many factors contribute to evacuation readiness and safety. It's not yet clear that infrastructure is a major impediment to safe evacuation. Slow evacuation is not necessarily unsafe. Residents sheltering in vehicles on paved surfaces, even in traffic, are likely safer. Similarly, safe evacuation and traffic congestion during evacuations are not necessarily mutually exclusive. Fairfax DPW and Ross Valley (Fire) are regularly engaged in hazard reduction along roadways. Vegetation fuel reduction along roadways is ongoing and increasing - with new funding online July 2020 through MWPA. Vegetation along the public right-of-way is the adjacent landowner's responsibility, not a public agency's in most cases. If vegetation and near roadway combustibles - on private property primarily - were managed appropriately, hazard would be nearly eliminated on residential evac routes. Private property hazards are being addressed as part of the increased defensible space inspection program.

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

Response: Partially disagree. There are many factors that contribute to safety and efficiency of evacuations, and responsibility for these factors may lie with multiple public agencies and/or private entities or landowners. The order to evacuate and responsibility lies with the law enforcement agency having jurisdiction. Since the early 2000's fire agencies and law enforcement have worked together to create pre-determined evacuation zones, regularly provided multi-jurisdictional exercises, common terminology and most recently the purchase of Zonehaven to assist, law, fire and residents in executing safer, timely evacuations.

F3. Marin County Board of Supervisors and town and city councils have the responsibility for safe evacuation routing, and they have not sufficiently considered evacuation as a criterion when approving improvements to roads and traffic infrastructure in their jurisdictions.

Response: Partially disagree. Roads and traffic infrastructure has not been identified as the major factor in evacuation safety. Hence the need for the MWPA evacuation study and a fact-based approach to evaluate potential hazards and impediments. The Grand Jury doesn't adequately consider other non-traffic related improvements that might have even greater impacts on evacuation safety: home hardening, near home defensible space, roadside vegetation, roadside combustible structures (incl fences, homes, other structures that might impinge the roadway with flames/heat). Traffic related improvements with the greatest impact are likely to be intersection related, including the ability to manage intersections effectively during power outages/PSPS, or when DPW and LEO availability is reduced (battery/generator backup for intersections, remote intersection control, real-time traffic monitoring, LEO control). Evacuation routes may have garnered less attention prior to 2017, since then regular coordination of fire agencies and public works has taken place. An example of this is engagement of Fire Safe Marin and Fire agencies regarding the center median project on Sir Francis Drake Blvd. through the Ross Valley.

F4. County and municipal administrators, public works, and traffic engineers have not adequately considered mass evacuation as a criterion for planning and funding traffic infrastructure improvements.

Response: Partially disagree. Prior to 2017 fire evacuation was not in the forefront of consideration as it is today after several years of devastating wildfires. Funding of traffic infrastructure improvements was highly focused on improving traffic flow (often benefiting evacuation), pedestrian safety and quality of life. Today, traffic planners and engineers consult with fire professionals and consider evacuation in concert with daily traffic impacts, pedestrian safety and a host of other traffic related considerations to best inform projects and spending priorities.

F5. Most Marin jurisdictions have not yet included urgently needed evacuation plans in their general plans as required by state law and as recommended by the Governor's Office of Planning and Research.

Response: Partially agree. Our understanding is that few Marin jurisdictions have included evacuation plans in their general plans. The Marin Wildfire Prevention Authority (MWPA) will be conducting an extensive analysis of evacuation routes including hazards and risks. When complete (projected completion 2021) this study will include ratings of roads and contributing factors to evacuation impediments. It will provide the guidance necessary to inform the MWPA's annual workplan as well as local hazard mitigation plans, public works agencies, traffic engineers and others making infrastructure improvements.

RECOMMENDATIONS AND RESPONSES

R1. Within 180 days of the date of this report, the governing boards of the County of Marin and its cities and towns should direct their respective planning and public works departments to include evacuation needs among their criteria for evaluating and recommending public works projects.

Response: This recommendation will be implemented after MWPA has completed its work on evacuation routes.

Specifically, the Marin Wildfire Prevention Authority (Fairfax is one of 17 member agencies) will be conducting an extensive analysis of evacuation routes including hazards and risks. When complete (projected completion 2021) this study will include ratings of roads and contributing factors to evacuation impediments. It will provide the data and information necessary to inform public works projects.

R2. Within 180 days of the date of this report, the governing boards of the County of Marin and its cities and towns should adopt resolutions calling on the Transportation Authority of Marin to include evacuation needs among the criteria it considers when planning and funding public works projects.

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

The Transportation Authority of Marin assists the Town of Fairfax and other jurisdictions in Marin County with the implementation of capital projects by identifying sources of funding and by ensuring that funding is distributed from other State and regional agencies in a way that is consistent with law and other shared agreements. While TAM provides a high level of support and works to ensure there is communication and coordination among the communities in Marin County, each jurisdiction is responsible for determining their own capital improvement project needs. As such, local governing bodies such as the Board of Supervisors and local Town/City Councils are best suited to address the needs and priorities of the communities they represent.

R3. In calendar year 2021, the County of Marin and its cities and towns should update the safety elements of their general plans to include evacuation planning.

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

The MWPA will be conducting an extensive analysis of evacuation routes, including hazards and risks. When complete later in 2021, this study will include ratings of roads and contributing factors to evacuation impediments. It will provide the data and information necessary to further inform public works projects, priorities, and policies. It is not clear absent the results of this study whether or when R3 is warranted and 2021 implementation is likely not feasible if warranted.

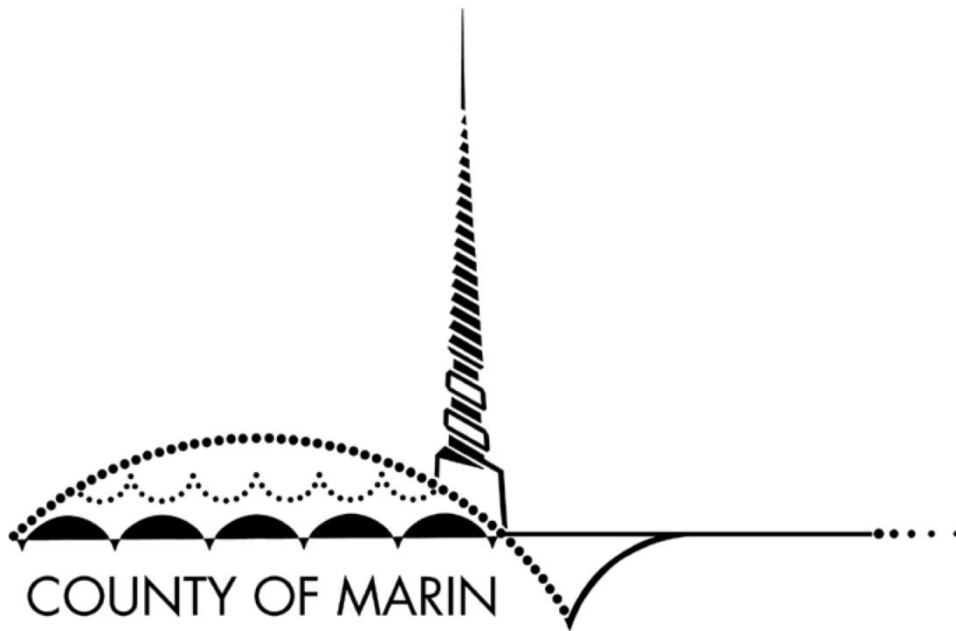
The Town of Fairfax's Safety Element has Goal S-3: Minimize risk due to fire hazards which includes a program for evacuation planning. The Town also has an adopted Local

Hazard Mitigation Plan. However, going through the process to amend the General Plan Safety Element for evacuation planning is not cost effective or reasonable. When the Town does pursue other amendments/updates to the General Plan Safety Element, we will consider the Grand Jury's recommendations in conjunction with MWPA's study findings at that time.

2019–2020 MARIN COUNTY CIVIL GRAND JURY

Roadblocks to Safer Evacuation in Marin

December 14, 2020



A Note about the Coronavirus Pandemic

The 2019–2020 Marin County Civil Grand Jury is issuing its reports during the unprecedented conditions of the COVID-19 pandemic. We are well aware that Marin County is in crisis and that critical public health concerns, operational difficulties, and financial challenges throughout the county have a greater claim to government attention right now than the important issues raised by this Grand Jury.

We are confident that, in due course, Marin will come through this crisis as strong as ever.

Roadblocks to Safer Evacuation in Marin

SUMMARY

California's 2020 fire season got off to an early start in mid-August with dry lightning that sparked five of the six largest wildfires in the state's history.¹ As of the end of September, nearly four million acres had burned, 22 major wildfires were still active, and 30 people were dead.²

As fires burned throughout the San Francisco Bay Area, anxious Marin residents sheltered from heavy smoke and kept a wary eye on the Woodward Fire in the Point Reyes National Seashore, hoping they would not be forced to evacuate at a moment's notice. People worried whether it would be possible to evacuate safely. The Grand Jury chose to investigate this question. Specifically, the jury sought to determine whether Marin's evacuation needs are considered adequately when government entities plan and build improvements to roads and traffic infrastructure.

Funding for transportation-related infrastructure projects is complicated, involving agencies at the local, county, regional, state, and federal levels. The rules and regulations governing these funding sources were largely developed before wildfire was the threat it has become in recent years and before the citizenry was fully aware of the urgent need to be able to evacuate quickly and safely. For instance, the Transportation Authority of Marin was chartered at a time when traffic congestion was high on Marin's priority list and wildfire evacuation was a remote concern. Times have changed.

Today, there is considerable uncertainty about who has the ultimate responsibility for building the transportation infrastructure capable of evacuating Marin residents safely in a rapidly evolving emergency. The Transportation Authority of Marin has not been willing to include evacuation as a criterion when funding roadway projects. The recently created Marin Wildfire Prevention Authority has neither the authority nor the funds to address the infrastructure needs. In fact, the county, towns, and cities have responsibility for public safety, but they have not prioritized evacuation needs when funding public works projects.

The Grand Jury recommends the following:

- Marin's county, town, and city governing bodies should include evacuation needs among their criteria for evaluating and recommending public works projects, and that they call on the Transportation Authority of Marin to do the same
- Marin's county, town, and city governing bodies should address evacuation infrastructure needs as they update their general plans

¹ Michael McGough, "5 of the 6 Largest California Wildfires in History Started in the Last 6 Weeks," *Sacramento Bee*, September 22, 2020, <https://www.sacbee.com/article245917915.html>.

² Phil Helsel, "Deadly Fires in California have claimed at least 30 lives this year," NBC News, September 30, 2020, <https://www.nbcnews.com/news/us-news/deadly-fires-california-have-claimed-least-30-lives-year-n1241632>.

- The Transportation Authority of Marin should formally establish evacuation as one of its criteria for consideration when planning and funding traffic projects
- The Marin Wildfire Prevention Authority should invite a Transportation Authority of Marin representative to become an at-large, nonvoting member of its Advisory/Technical Committee to support program development, funding, and implementation of improvements to evacuation routes

APPROACH

The Grand Jury interviewed officials of the Transportation Authority of Marin (TAM) and the Marin Wildfire Prevention Authority (MWPA), as well as county supervisors, city and town council members, city managers, public works directors, fire and police officials, agency legal counsel, and staff of the Marin County Office of Emergency Services. The Grand Jury reviewed TAM's charter as well as its response to a previous Grand Jury wildfire report that called on TAM to assume some responsibility for evacuation planning. In addition, it reviewed the authorizing documents of the MWPA, attended public meetings, and examined county and municipal general plans.

The Grand Jury investigation focused exclusively on evacuation as it relates to planning, funding, and implementing public works projects on our roads.

BACKGROUND

Marin County has made progress in addressing the threat of wildfire with the formation and funding of the MWPA that was recommended by the 2018–19 Marin County Civil Grand Jury. With the leadership of fire officials and FIRESafe Marin, county residents are establishing certified Firewise neighborhoods focused on vegetation management and hardening homes against the risk of fire. The MWPA is getting off to a good start with several important initiatives, including inspection, vegetation management, public education, establishment of refuge centers, signage, planning, and mapping.

Planning to safely evacuate a community is complex and includes the need to consider public works projects for making rapid evacuation possible along Marin's narrow and congested roads. The September 2020 Glass Fire forced the sudden evacuation of 68,000 Sonoma County residents and resulted in gridlock on a major route.³ During the 2018 Camp Fire in Paradise, flames raced at a rate of more than one football field every three seconds.⁴ In that fire, eight people perished in their cars trying to escape.

In Marin, evacuation needs are not routinely included in the criteria used by county and municipal public works departments or TAM to prioritize and finance traffic projects. When it comes to planning and funding public works projects, the primary considerations are the safety

³ Lori A. Carter, Kevin Fixler, Guy Kovner, et al., "Live Updates: More Fire Evacuation Orders Issued for East Santa Rosa," Santa Rosa Press Democrat, September 28, 2020, <https://www.pressdemocrat.com/article/news/live-updates-more-fire-evacuation-orders-issued-for-east-santa-rosa/amp/>.

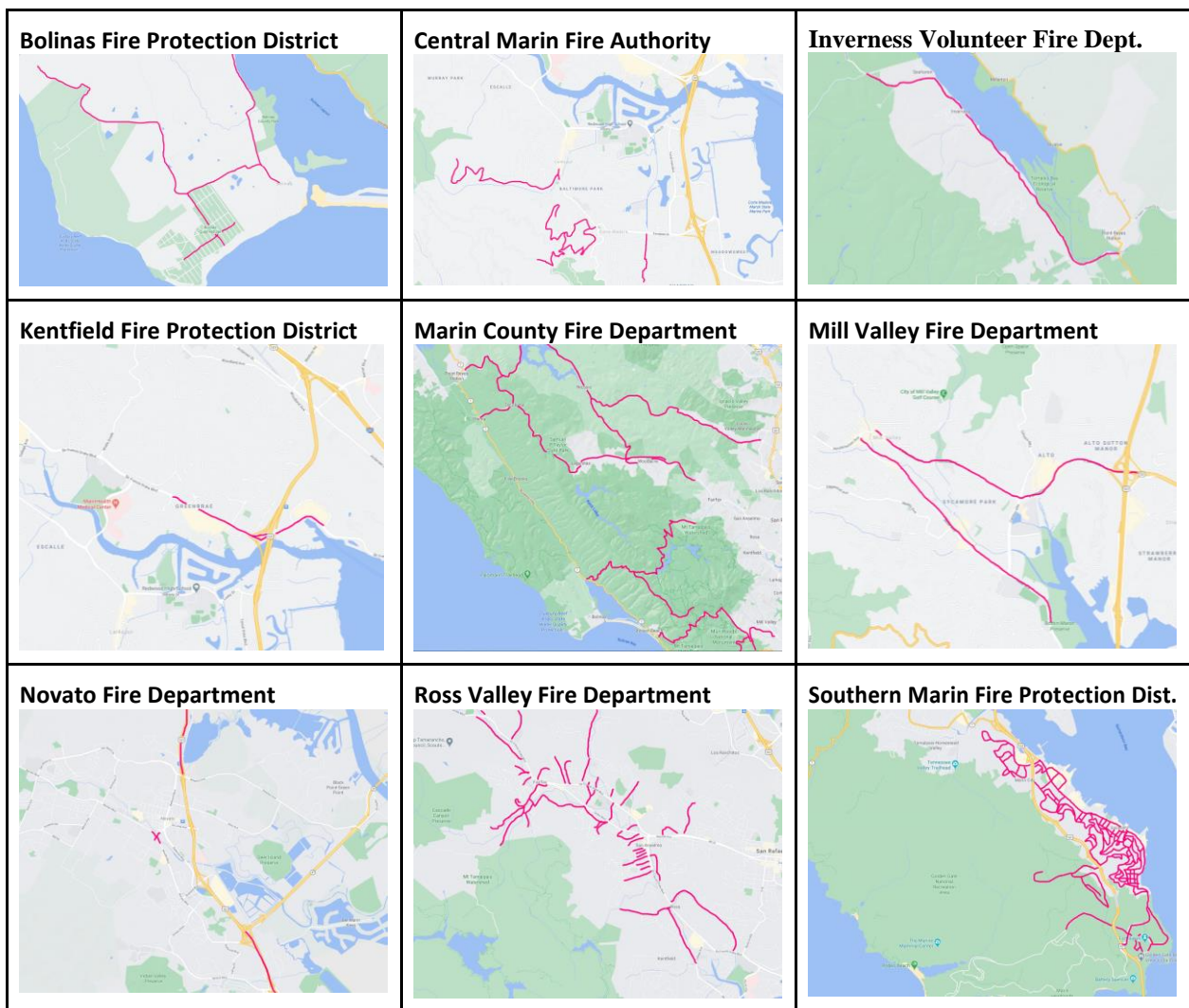
⁴ Judson Jones, "One of California Wildfires Grew So Fast It Burned the Equivalent of a Football Field Every Second," CNN, November 10, 2018, <https://www.cnn.com/2018/11/09/us/california-wildfires-superlatives-wcx/index.html>.

of pedestrians, bicyclists, and drivers as well as smooth, efficient traffic flow and congestion management. In numerous jurisdictions, evacuation needs do not make the list of approved criteria that are evaluated when deciding on a project. As one official put it, evacuation is “not on the radar.”

Traffic Congestion and Evacuation Challenges

Marin’s unique geography creates exceptional challenges for transportation planners across the county. The 2018–2019 Marin County Civil Grand Jury presented an extensive list of choke points identified by Marin’s fire districts.⁵ Some of these are illustrated in Figure 1.

Figure 1. Choke Points Identified by Fire Districts in 2019



⁵ Marin County Civil Grand Jury, *Wildfire Preparedness: A New Approach*, Appendix C, April 25, 2019, <https://www.marincounty.org/-/media/files/departments/gj/reports-responses/2018-19/wildfire-preparedness--a-new-approach.pdf?la=en>.



Road narrowing at eastbound East Blithedale Avenue approaching Highway 101. (Photo by Spencer Sias)

The problem is compounded when evacuation routes cross multiple jurisdictions where no single agency has authority to make improvements along the entire route. These problems are illustrated at several locations in Marin.

For example, Mill Valley's Miller Avenue and Blithedale Avenue are the primary evacuation routes for more than 15,000 people, almost all of whom live in a fire-prone wildland-urban interface area. Normal traffic there is consistently backed up at three key choke points: the intersection of Camino Alto and East Blithedale, the Highway 101 interchange at Blithedale, and the heavily gridlocked intersection on Shoreline Highway (Highway 1) at Tam Junction. Evacuation to refuge centers near Highway 101 will almost certainly not be possible for many Mill Valley residents. Two of the three choke points that affect Mill Valley lie outside its city limits. To address this problem, multi-jurisdictional cooperation among TAM, Mill Valley, Marin County, and Caltrans will be needed.

The two primary emergency exits from San Anselmo and Fairfax are Sir Francis Drake Boulevard and Red Hill Avenue, which pass through many choke points across multiple jurisdictions, including Ross, San Rafael, Larkspur, County of Marin, and the Caltrans interchanges at Highway 101.

Similar choke points exist in Sleepy Hollow, where the Butterfield Road escape route runs across the jurisdictions of unincorporated Marin County and San Anselmo. Santa Venetia's escape route on San Pedro Road crosses unincorporated Marin County, San Rafael, and the Caltrans interchange at Highway 101. Evacuation along Novato Boulevard involves the City of Novato and the county.

In addition to the choke points on major arterial routes, natural and constructed obstacles on Marin's narrow hillside and feeder roads impede safe evacuation.

DISCUSSION

Planning for safe wildfire evacuation is complicated. It requires multi-agency cooperation to address a multitude of tasks by many different departments and administrators under the direction of Marin's elected officials. These tasks are performed by county and municipal public works, fire, and law enforcement agencies; the Marin County Office of Emergency Services; and the Marin Wildfire Prevention Authority; as well as by regional, state and federal agencies.

Current thinking among most of the county's public safety officials is that residents needing to evacuate should get into their cars, drive down to valley floors, and then go to mapped refuge centers. If necessary, evacuees can then move onto highways and out of the county. Refuge centers are typically large parking lots, playing fields at schools and community centers, and shopping malls. Putting aside the question of whether the designated refuge centers are large enough to accommodate all the evacuees from heavily populated areas, the paths to reach these refuge centers could be impassable. In the long run, it will be essential to move traffic through known choke points in order to ensure public safety in a swiftly moving emergency requiring mass evacuation with little or no warning.

Fire professionals tell residents that they will be safe in their cars on pavement en route to valley floors or designated refuge centers.⁶ They stress that residents should evacuate as soon as they are warned to avoid congestion and panic. However, fires often strike suddenly and create the need to move thousands of cars immediately with little or no warning.

While Marin's agencies are implementing many aspects of evacuation planning, they are not considering infrastructure improvements such as the removal of impediments or the widening of roads for evacuees and emergency vehicles. In interviews with the Grand Jury, many officials expressed reluctance to take on these specific evacuation infrastructure challenges because of the enormous costs, potential litigation, environmental complexities, neighborhood resistance, and lack of authority. Furthermore, it is not clear who has responsibility for addressing this critical need. Nevertheless, the dire consequences of failing to address this challenge could result in a catastrophe that far outweighs the cost of improving our roads to support mass evacuation.

Political Confusion

Marin has political as well as physical impediments to safe evacuation.

At present, it is not clear who has the political authority for all of the many aspects of planning and implementing evacuations. In fact, no single governmental entity has the authority or has accepted responsibility for overseeing and executing all of these tasks.

In interviews with the Grand Jury, public officials often expressed the belief that some other agency had the responsibility for evacuation. For example, some public works directors and city managers believe that fire and law enforcement are in charge of evacuation and involved in its planning. Transportation officials said that the county's Office of Emergency Services is in

⁶ FIRESafe Marin, "Wildfire Evacuation Guide," accessed November 5, 2020, https://firesafemarin.org/index.php?option=com_content&view=article&id=100&Itemid=614.

charge. However, when asked, officials from the Office of Emergency Services and law enforcement responded that they focus on evacuation only during active emergencies.

The Grand Jury heard from several elected officials that they anticipate that the new wildfire authority will take care of evacuation planning. To add to the muddle, there was often confusion over what planning for evacuation actually entails. No one had a complete grasp of all of the interconnected components, whether it is educating the public, cutting back vegetation, improving mapping and signage, designating refuge centers, executing evacuation during emergencies, or actually building and improving the infrastructure to support a mass evacuation.

After completing its investigation, the Grand Jury believes that the ultimate responsibility for road improvements and establishing safe evacuation routes lies with our elected officials, specifically the Marin County Board of Supervisors as well as Marin's town and city councilmembers. For a fully functional evacuation infrastructure, these officials must execute their local policies and decisions through their public works, fire, and law enforcement departments and agencies while also coordinating with one another across jurisdictions. They must also reach out to the state and federal transportation agencies to seek funds. All of this work will require the support of the Transportation Authority of Marin and the new Marin Wildfire Prevention Authority. No jurisdiction or agency can do this entirely by itself.

County, Towns, and Cities

It is up to the county and municipalities to propose and build the public works infrastructure needed to support evacuation as well as emergency access by fire equipment and first responders. It is critical that they remediate traffic choke points and improve key narrow roads within their boundaries. They also must look beyond their borders at cross-jurisdictional evacuation routes that will be needed to accommodate mass evacuations.

While jurisdictions may have the resources for small projects, they will need to coordinate with one another and regional, state, and federal transportation agencies to obtain the funding required for larger local and cross-jurisdictional projects. Major public works projects can involve enormous expense, generate litigation, and take years to accomplish. However, the Grand Jury believes that even small projects that address evacuation can make a big difference over time.

Elected officials through their local public works departments are responsible for building and maintaining a safe road infrastructure for the public, whether they are in automobiles, on bikes, or on foot. Safe, smooth, and efficient traffic flow on an everyday basis is their prime consideration. Evacuation has not been one of the criteria in planning road projects but given the effects of climate change and the rising risk of fire, it cannot be ignored.

Public works decisions are often made in response to demands from local residents who lobby for specific improvements in their neighborhoods. The Grand Jury heard from a number of public works directors that they respond to appeals from parents in regard to pedestrian safety. There have not been similar appeals from the public for evacuation-related improvements.

The responsibilities of each public works department end at its jurisdictional boundaries. While there has been some informal coordination between cities, there is no formal plan for coordinating traffic flow across cross-jurisdictional evacuation routes.

Each jurisdiction has its own challenges and priorities, and the solutions to those challenges may conflict with evacuation concerns. In some cases, individual jurisdictions have chosen to address local demands for quieter, slower streets by narrowing major routes within their cities.

Mill Valley is a good example of trying to balance evacuation with safe traffic flow, aesthetics, and other competing requirements. In 2017, Miller Avenue was re-stripped to narrow the road from four lanes to two lanes in order to add a bike lane and needed parking in the downtown area. In 2019, after evacuation concerns were expressed, the city amended the plan to prohibit parking on Miller Avenue on “red flag” days when fire danger is high. This compromise is a recognition of the need to be able to evacuate large numbers of vehicles out of the city in an emergency.

Individual governing bodies of the cities, towns, and the county should direct their departments of public works to add evacuation as an important criterion to be considered as part of their normal planning process. This does not need to be an onerous addition. A simple item on a checklist should be included with a short explanation of how evacuation would be impacted.

The county and municipal elected officials have the ultimate responsibility for evacuation and public roadways, and they can also strongly influence the policies and decisions of the Transportation Authority of Marin. TAM is a resource and the primary source of funding for transportation infrastructure projects in the county. Its board is composed solely of a councilmember from every town and city as well as all five members of the county’s board of supervisors. Unless the county, towns, and cities prioritize infrastructure work to improve evacuation, this work will not happen.

As part of fulfilling their responsibility for evacuation safety, Marin’s board of supervisors and municipal councils should each pass a resolution requesting TAM establish a policy to examine the impact on evacuation of every road project presented to it for funding.

County and Municipal General Plans

County and municipal general plans lay out each jurisdiction’s vision for long-term development, including its traffic infrastructure. General plans are required by state law, and the law requires that general plans include evacuation as a component of their safety element. Specifically, it states that “the safety element . . . shall also address evacuation routes . . . and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.”⁷

In addition, the 2015 Governor’s Office of Planning and Research’s *Fire Hazard Planning* guide recommends that general plans include evacuations.⁸ Specifically, the guidelines call for:

- Designating and maintaining safe emergency evacuation routes on publicly maintained roads for all communities and assets at risk

⁷ California Government Code 65302(g), https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65302.&lawCode=GOV.

⁸ Governor’s Office of Planning and Research, *Fire Hazard Planning*, May 2015, p. 21, [Fire Hazard Planning: General Plan Technical Advice Series](#).

- Identifying potential circulation improvements necessary to avoid unacceptable community risks

The Grand Jury reviewed the general plans of the county and the municipalities and found that evacuation is not adequately addressed. As of October 2020, only Belvedere, Mill Valley, and Novato had included evacuation in their general plans, although several other jurisdictions are in the process of making some changes.

California state law also mandates that general plans be updated on a regular basis. These plan updates provide government officials the opportunity to consider evacuation when making decisions involving land use, development, and infrastructure. Given the dangers illustrated by the 2020 wildfire season, the Grand Jury believes that the county, cities, and towns should amend their general plans to explicitly address evacuation issues. Specifically, they should identify the roads within their jurisdictions that create unacceptable community risks and plan to improve them as soon as possible.

The Transportation Authority of Marin

In its *Wildfire Preparedness: A New Approach* report, the 2018–19 Marin County Civil Grand Jury made four recommendations calling on the Transportation Authority of Marin to participate in planning, prioritizing, and funding evacuation projects.⁹ TAM responded to that Grand Jury report by stating that “TAM is a funding agency and does not set local policy.”¹⁰ During subsequent interviews, the 2019–2020 Grand Jury heard TAM officials continue to deny that the agency has any role or responsibility for considering evacuation needs in its transportation projects. However, the current Grand Jury believes that the TAM board can and should ensure that evacuation considerations are integrated as a criterion into the planning and funding of all transportation projects.

TAM is ideally positioned to help address the county’s evacuation infrastructure needs. It is the only entity in Marin with countywide authority over transportation projects. It is also the primary agency through which Marin’s major transportation projects are developed and funded. Its board is broadly representative of Marin’s jurisdictions, and therefore it can support large cross-jurisdictional projects along Marin’s major evacuation routes. By coordinating grant applications for multi-jurisdictional and countywide evacuation infrastructure projects, TAM can strengthen Marin’s chances of obtaining regional, state, and federal funds.

TAM was established as Marin’s official congestion management agency¹¹ and is the major source of funding for many Marin transportation projects, both small and large. It provides funding for roads, bikeways, sidewalks, and pathways. It also supports local transit services and school safety programs. TAM gets funding from local sales taxes and a local vehicle registration fee, as well as from regional, state, and federal grants.

⁹ Marin County Civil Grand Jury, *Wildfire Preparedness: A New Approach*, p. 24.

¹⁰ Transportation Authority of Marin, “Response to Grand Jury Report “Wildfire Preparedness - A New Approach,” June 27, 2019, <https://www.marincounty.org/-/media/files/departments/gj/reports-responses/2018-19/responses/wildfire-preparedness-a-new-approach/wildfire--tam.pdf?la=en>.

¹¹ Transportation Authority of Marin, “Overview,” accessed November 5, 2020, <https://www.tam.ca.gov/overview/>.

In 2018, Marin’s voters approved Measure AA, a ½-cent sales tax to support local transportation projects. This tax is expected to generate up to \$273 million that could be used to improve local roads over the next 30 years.¹² This money is prescribed for many purposes, but one such purpose is to make investments to address congestion and improve “traffic flow” on local streets and road corridors. Of the \$273 million, TAM estimates that \$7.2 million will be available annually for maintenance of Marin’s local transportation infrastructure, including roads, bike paths and walking paths. The measure also makes an additional \$1.9 million available on an annual basis to reduce congestion on Highway 101 and adjacent roadways.

Local spending in these areas could help to alleviate impediments to safe evacuation. The money could also be used as matching funds to obtain larger regional, state, and federal grants. This can be accomplished within the Measure AA framework approved by Marin’s voters, and it would be in keeping with the vital public interest in having safe evacuation routes.

The Grand Jury’s review indicates that TAM has the discretion as well as financial resources to address unanticipated events under existing rules. For example, TAM recently made Quick Build Grants to towns and cities to close streets to traffic so restaurants could provide outdoor dining during the COVID-19 pandemic.¹³

TAM does not need to amend its charter or amend the expenditure plan for AA funds in order to consider evacuation routes in its funding algorithms. The TAM board is not prohibited from establishing a policy that every project submitted for funding must consider the impact of the project on mass evacuation. TAM’s board can also direct its staff to work with the county and municipalities to ensure that every project proposal includes consideration of the impact on Marin’s evacuation infrastructure.

TAM could be more effective if it works directly with the new Marin Wildfire Prevention Authority to help identify and fund evacuation infrastructure projects. TAM has traffic models and an extensive set of data that could be extremely useful for evacuation planning.¹⁴

The Marin Wildfire Prevention Authority

The Marin Wildfire Prevention Authority is a new, countywide agency dedicated to all aspects of wildfire prevention and preparation. It is the first agency of its kind in the state and represents a pioneering effort in fire prevention. When it was being formed, the MWPA was presented as the agency that would address Marin’s wildfire prevention, evacuation infrastructure, and planning needs.

¹² Transportation Authority of Marin, *2018 Final Expenditure Plan*, p.9, accessed October 15, 2020, https://2b0kd44aw6tb3js4ja3jprp6-wpengine.netdna-ssl.com/wp-content/uploads/2018/07/TAM_2018FinalExpenditurePlan_062918.pdf.

¹³ Will Houston, “Marin Grant Program Offers Virus Aid for Outdoor Commerce,” *Marin Independent Journal*, July 12, 2020, <https://www.marinij.com/2020/07/12/marin-grant-program-offers-virus-aid-for-outdoor-commerce/>.

¹⁴ Transportation Authority of Marin, *Travel Demand Model & Traffic Monitoring*, accessed October 3, 2020, <https://www.tam.ca.gov/planning/travel-demand-model-traffic-monitoring/>.

The Measure C initiative placed on the ballot to fund the MWPA specifically stated:

Marin Wildfire Prevention Measure. To support coordinated wildfire prevention including early detection, warning and alerts; reducing vegetation; ensuring defensible space around homes, neighborhoods and critical infrastructure; and *improving disaster evacuation routes/procedures*; shall the Marin Wildfire Prevention Measure, levying up to 10¢ per building square foot tax (\$75 per multifamily unit or as described in the full measure) for ten years, providing \$19,300,000 annually, with annual inflation adjustments, independent citizen oversight/audits, and low-income senior exemptions, be adopted?¹⁵

In addition, the campaign literature promoting Measure C to fund MWPA explicitly promised to address evacuation infrastructure. The image below shows a Measure C campaign flyer describing in the second bullet point that a yes vote on Measure C will “improve evacuation routes and infrastructure for quicker, safer evacuations.”

DON'T PLAY WITH FIRE: IT'S NOT WORTH THE RISK

LOCAL LEADERS AGREE — VOTE YES ON C
 League of Women Voters of Marin County
 Coalition of Sensible Taxpayers (COST)
 Marin Independent Journal
 Marin County Fire Chief's Association
 FIREsafe MARIN
 Marin Association of REALTORS®
 Marin Conservation League
 Conservation Corps North Bay
 North Bay Leadership Council
 Jared Huffman, US Congressman
 Mike McGuire, CA State Senator
 Judy Arnold, Marin County Board of Supervisors
 Damon Connolly, Marin County Board of Supervisors
 Katie Rice, Marin County Board of Supervisors
 Dennis Rodoni, Marin County Board of Supervisors
 Kate Sears, Marin County Board of Supervisors
 James Andrews, Mayor, Town of Corte Madera
 Denise Athas, Mayor, City of Novato
 Elizabeth Brekhus, Mayor, Town of Ross
 Renee Goddard, Mayor, Town of Fairfax
 Ford Greene, Mayor, Town of San Anselmo
 Gary Phillips, Mayor, City of San Rafael
 Catherine Way, Mayor, City of Larkspur
 Jim Wickham, Mayor, City of Mill Valley
 *Partial list. Titles for identification purposes only.

We teach our children not to play with fire and now it's our turn to follow this commonsense advice. With longer, hotter and drier fire seasons combined with Marin's abundant natural vegetation that could fuel a wildfire, we've been fortunate to date. Destructive and fatal wildfires in Sonoma, Paradise and elsewhere have taught us that we must be proactive. Voting Yes on C — the Marin Wildfire Prevention Measure — will help protect Marin from the very real threat of wildfire.

VOTE YES ON MEASURE C TO:

- Improve emergency alert and fire warning systems
- Improve evacuation routes and infrastructure for quicker, safer evacuations
- Reduce hazardous vegetation using environmentally-responsible practices
- Expand defensible space and fire safety inspections
- Protect roads, bridges, power and communication lines, schools and police and fire stations
- Provide support for seniors, low-income homeowners and people with disabilities needing assistance to keep their homes fire resistant
- Expand neighborhood wildfire safety and preparedness programs

STRICT FISCAL ACCOUNTABILITY:

- All funds must be spent locally for wildfire prevention and preparedness only
- By law, no funds can be taken by the State
- An independent citizens' oversight committee ensures funds are spent properly
- Low-income senior citizens are eligible for an exemption from the cost
- Administrative costs are strictly capped at no more than 6% so funds go directly to wildfire prevention

YES ON C FOR WILDFIRE SAFETY

VOTE YES ON C TO PROTECT MARIN FROM WILDFIRE

Ad paid for by Committee for Wildfire Safety — Yes on C, committee major funding from Christian Larsen FPPC# 1422676.

Yes4WildfireSafety.org
 /Yes4WildfireSafety

Measure C campaign flyer promising, among other statements, that a yes vote would “improve evacuation routes and infrastructure for quicker, safer evacuations.”

¹⁵ Marin County Registrar of Voters, “March 3, 2020 - Measure C,” emphasis added, <https://www.marincounty.org/depts/rv/election-info/election-schedule/page-data/tabs-collection/2020/march-3/measure/measure-c-tab>.

Marin voters approved the ballot initiative with a 71 percent majority.

The Grand Jury is concerned that Marin’s public may have a false sense of security regarding evacuation routes, thinking that all issues relating to the matter will be handled by the new government agency. Local officials told the Grand Jury that citizens are not calling on them to improve evacuation routes in current or future infrastructure projects. They are not demanding action on the inevitable, and possibly lethal, road congestion that will occur in the event of a mass evacuation.

From its interviews and investigation, the Grand Jury confirmed that not only the public, but others, including some government officials, expect that evacuation improvements will fall under the purview of the MWPA. FIRESafe Marin, a nonprofit organization formed by Marin County’s fire chiefs, produced and distributed a fact sheet about the new agency and described one of its tasks as “improving evacuation routes and infrastructure to enhance traffic flow and promote safe evacuation.”¹⁶ Seeming to further support this assumption, the MWPA website states that one of its roles is to “improve disaster evacuation routes for organized evacuation.”¹⁷ Despite these assertions, the MWPA does not plan to actually make infrastructure improvements.

The MWPA is funding major vegetation management projects, creating evacuation maps, applying for and giving grants, providing defensible space evaluations, and planning many other important tasks. However, it should be clearly understood that the MWPA does not have the political authority to initiate the public works projects to build safe mass evacuation routes, nor does it have sufficient financial resources to fund them.

The MWPA is composed of 17 different jurisdictions. Rather than giving the MWPA top-down authority, its formation agreement requires that all its actions are to be achieved through cooperation among its constituent jurisdictions. It cannot impose a requirement for major infrastructure work on the county or any individual jurisdiction. Political authority remains with the towns, cities, and county.

Although the tax for the MWPA is expected to raise approximately \$19.3 million per year, this amount of money is not enough to cover the cost of any major roadway improvement. The MWPA is planning to fund and execute other evacuation-related projects. For instance, it has allocated \$1 million for a traffic study of evacuation routes. This traffic study could be the blueprint for planning future roadway improvements; but beyond this, the agency will not be responsible for executing or funding such work.

It would make sense for the MWPA and the Transportation Authority of Marin to coordinate this infrastructure planning work with the towns, cities, and county. To facilitate this coordination, the MWPA should invite a TAM representative to become an at-large, nonvoting member of its Advisory/Technical Committee.

¹⁶ FIRESafe Marin, “Local Wildfire Prevention & Mitigation Initiative,” accessed October 4, 2020, https://www.firesafemarin.org/images/articles/mwpa/JPA_FactSheet_Final.pdf.

¹⁷ Marin Wildfire Prevention Authority, “About Us,” accessed October 17, 2020, <https://www.marinwildfire.org/about-us>.

CONCLUSION

Planning, executing, and building for evacuation is an enormous, complex, expensive, and time-consuming task that can only be achieved one step at a time. As a start, to meet the need for safer evacuation, Marin's officials and agencies should consider evacuation impacts whenever they are planning a new roadway improvement project. Success in this endeavor will require dedicated attention by our elected leaders and cooperation across and within Marin's jurisdictions as well as the Transportation Authority of Marin and the Marin Wildfire Prevention Authority. With recognition of the progress made so far and in view of the extensive work that remains to be done, the Grand Jury is recommending the next steps needed to build for evacuation.

FINDINGS

- F1. No single agency or jurisdiction is taking responsibility and authority for building infrastructure for safe evacuation routes across jurisdictions in Marin County.
- F2. There is confusion in the county as to who has ultimate responsibility and authority for ensuring that Marin has safe evacuation routes.
- F3. Marin County Board of Supervisors and town and city councils have the responsibility for safe evacuation routing, and they have not sufficiently considered evacuation as a criterion when approving improvements to roads and traffic infrastructure in their jurisdictions.
- F4. County and municipal administrators, public works, and traffic engineers have not adequately considered mass evacuation as a criterion for planning and funding traffic infrastructure improvements.
- F5. Most Marin jurisdictions have not yet included urgently needed evacuation plans in their general plans as required by state law and as recommended by the Governor's Office of Planning and Research.
- F6. As Marin's designated "congestion management agency," the Transportation Authority of Marin, is best positioned to coordinate and support the funding of public works projects for improving evacuation routes, including cross-jurisdictional evacuation routes.
- F7. Contrary to its previous responses to the Grand Jury, the Transportation Authority of Marin is not precluded or constrained from incorporating evacuation planning needs as a criterion in its infrastructure projects.
- F8. The Transportation Authority of Marin's decision-making process is inadequate unless it includes evacuation as a criterion when funding improvements.
- F9. The Marin Wildfire Prevention Authority's Advisory/Technical Committee would benefit from having the expertise of the Transportation Authority of Marin to advise on evacuation infrastructure needs.

RECOMMENDATIONS

- R1. Within 180 days of the date of this report, the governing boards of the County of Marin and its cities and towns should direct their respective planning and public works departments to include evacuation needs among their criteria for evaluating and recommending public works projects.
- R2. Within 180 days of the date of this report, the governing boards of the County of Marin and its cities and towns should adopt resolutions calling on the Transportation Authority of Marin to include evacuation needs among the criteria it considers when planning and funding public works projects.
- R3. In calendar year 2021, the County of Marin and its cities and towns should update the safety elements of their general plans to include evacuation planning.
- R4. Within 120 days of the date of this report, the Transportation Authority of Marin should establish a criterion requiring that evacuation impacts be examined and stated when planning and funding infrastructure projects.
- R5. Within 120 days of the date of this report, the Marin Wildfire Prevention Authority should invite a Transportation Authority of Marin representative to become an at-large, nonvoting member of its Advisory/Technical Committee to support program development, funding, and implementation of improvements in evacuation routes.

REQUEST FOR RESPONSES

According to the California Penal Code, agencies required to respond to Grand Jury reports generally have no more than 90 days to issue a response. It is not within the Grand Jury's power to waive or extend these deadlines, and to the Grand Jury's knowledge, the Judicial Council of California has not done so. But we recognize that the deadlines may be burdensome given current conditions caused by the COVID-19 pandemic.

Whether the deadlines are extended or not, it is our expectation that Marin's public agencies will eventually be able to return to normal operations and will respond to this report. In the meantime, however, public health and safety issues are of paramount importance and other matters might need to wait.

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses as shown below. Where a recommendation is addressed to multiple respondents, each respondent should respond solely on its own behalf without regard to how other respondents may respond.

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses from the following governing bodies:

- County of Marin Board of Supervisors (F1–F5, R1–R3)
- Belvedere City Council (F1–F5, R1–R3)
- Corte Madera Town Council (F1–F5, R1–R3)
- Fairfax Town Council (F1–F5, R1–R3)
- Larkspur City Council (F1–F5, R1–R3)
- Mill Valley City Council (F1–F5, R1–R3)
- Novato City Council (F1–F5, R1–R3)
- Ross Town Council (F1–F5, R1–R3)
- San Anselmo Town Council (F1–F5, R1–R3)
- San Rafael City Council (F1–5, R1–R3)
- Sausalito City Council (F1–F5, R1–R3)
- Tiburon Town Council (F1–F5, R1–R3)
- Transportation Authority of Marin Board of Directors (F1, F2, F6–F9, R4)
- Marin Wildfire Prevention Authority Board of Directors (F1, F2, F9, R5)

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code Section 933(c) and subject to the notice, agenda and open meeting requirements of the Brown Act.

Note: At the time this report was prepared information was available at the websites listed.

Reports issued by the Civil 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 Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.