

**NAPA COUNTY CIVIL GRAND JURY
2021-2022**

FINAL INVESTIGATIVE REPORT

ATTAINING OUR BROADBAND FUTURE IN NAPA COUNTY

June 7, 2022

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SUMMARY

Catastrophic fires and the pandemic vividly illustrate that fast, reliable, and affordable broadband¹ access for all Napa County (County) residents is not a luxury—it is a necessity. Amongst County leadership, there appears to be little debate that broadband access is as important as electricity or water, akin to a utility. It is true that the investment to expand broadband access to bridge the County’s digital divide,² will be substantial, and beyond the County’s current resources. But there is good news. Californians are nearing what many describe as a “once-in-a-generation” investment in broadband from both State and Federal funds totaling billions of dollars.

The Napa County Civil Grand Jury examined how prepared the County is to compete for these funds and whether they will be able to productively use them if they are awarded. Although the County has recently increased the pace of its preparations, the Grand Jury believes that the County should be ready now to compete for the funding; the competition for those funds from other public entities and Internet Service Providers (ISPs)³ will be fierce.

Despite the enthusiastic support for the notion of “broadband for all,” the County’s actions reveal the truth—broadband is not a high priority to County leadership, and the County currently exhibits few characteristics that make it an “attractive” broadband grant recipient. Unlike neighboring counties, Napa has not invested in a broadband strategic plan, designated a lead agency to strategize and implement a plan, dedicated resources, meaningfully engaged County stakeholders (towns, cities, public agencies, schools, healthcare providers and others), or made progress toward identifying “shovel-ready” projects.

The provision of fast, reliable, and affordable broadband services to all County residents is a complicated undertaking fraught with a shifting political environment, significant decisions (e.g., public versus private ownership) and a dynamic technological landscape. With only a few exceptions, County leadership (elected and non-elected) appear unaware of critical broadband issues, and unprepared for key choices that the County will soon confront.

However, with immediate action as outlined below, the County can position itself to compete more effectively as the funding floodgates open. Education, strategic plans, resource dedication, stakeholder coordination, and forums for community input are all actions the County should

¹ At its most basic level, broadband refers to a fast, constant and reliable high-speed internet communications network typically delivered through fiber optic, wireless, copper cable, DSL or satellite. The Federal Communications Commission has defined broadband in terms of speed (minimum of 25 Mbps download and 3 Mbps upload speeds). That definition is considered outdated, and today most experts agree that the speeds must be significantly higher. In California, the Governor’s office stated it should be at least 100 megabits per second download speed to guide infrastructure investments. See California Executive Order N-73-20 (<https://www.gov.ca.gov/wp-content/uploads/2020/08/8.14.20-EO-N-73-20.pdf>). The term “affordable” encompasses the idea that broadband needs to be reasonably available to all regardless of social or economic status. *See also*, the bibliography for several reference materials providing a more in-depth discussion of broadband.

² The ‘digital divide’ is the gap between those with fast and reliable internet access and those without it. The digital divide is multifaceted and includes many factors such as access, affordability, quality, and having the necessary skills and technology to make use of it.

³ An ISP is a company that provides subscribers with access to the internet.

undertake if it has the will to do so. Napa should not waste a once-in-a-generation opportunity to close the digital divide in the County. Napa should position itself for its digital future.

BACKGROUND

Initially, the Grand Jury, like many County residents, sought to understand why broadband and cellular access/reliability in the County is inconsistent and often non-existent. Certain areas of Napa County seem to lack any cellular coverage or access to fast broadband. The wildfires over the past several years demonstrated that the reliability of service during emergencies was terrible in many areas, leading to some potentially serious consequences. The Grand Jury also observed that the pandemic put immense pressure and increased demand on broadband resources as usage, bandwidth requirements, and need for consistent reliability skyrocketed, exacerbating access issues for many residents.

As the Grand Jury quickly discovered, most of the causes of broadband and cellular access and reliability were already known to those studying the problem for the County. Following the 2017 fires, the County retained the services of Magellan Advisors. The first Magellan study was conducted, in part, to assess the damage done by the 2017 fires and the overall quality of the remaining County cellular and broadband network. *See*, the Infrastructure Assessment Report. The purpose of the second study, was to examine opportunities to improve the network infrastructure and provide recommendations for expanding and strengthening it. *See*, the Recommendation Report. These reports are detailed and answer many technical questions regarding the inadequacy of the County’s broadband infrastructure. The County’s digital divide is exacerbated by geography, socio-economic status, and inconsistent service by ISPs. The cost to solve these issues, including addressing the inadequacy of the infrastructure and issues of affordability, is significant and beyond the financial means of the County on its own. The Grand Jury recommends that all interested parties read the two reports issued by Magellan Advisors.⁴

During the course of its review, the Grand Jury became aware that new broadband funding, which had long been a pipe dream of many, was going to occur as part of spending at both State and Federal levels to enhance infrastructure and stimulate the economy in response to the severe financial consequences of the pandemic. The Grand Jury also learned about the substantive steps taken by neighboring counties to address their broadband access issues (some of which were taken even before the pandemic). As the Grand Jury began looking at what steps the County had taken to move toward fast, reliable, and affordable broadband, both California and the Federal government enacted massive funding bills for broadband which will soon be distributed through grants. The processes and rules associated with obtaining those grants are close to being finalized by the administering agencies.

⁴ Magellan published the *Napa County Fiber Infrastructure Engineering Assessment Report*, (12/2018) (the “Infrastructure Assessment Report”) (<http://www.mendocinobroadband.org/wp-content/uploads/Napa-County-Fiber-Infrastructure-Engineering-Assessment-Report.pdf>) and the *Napa County Network Infrastructure Assessment: Opportunity Analysis and Recommendation Report* (9/17/2020) (the “Recommendation Report”) (<https://services.countyofnapa.org/AgendaNet/DownloadDocument.aspx?type=BOS&doctype=ATTACHMENT&id=55222>).

As opposed to looking at why broadband access/reliability in Napa County is so poor, the Grand Jury pivoted to reviewing whether the County is prepared to compete for the broadband grants becoming available. If the County acts decisively, those broadband grants have the potential to help bring “broadband to all” County residents. It is an enormous opportunity that must not be wasted.

METHODOLOGY

The Grand Jury’s broadband investigation employed the following methodology:

- Review of a broad range of pertinent broadband-related information including County consultant reports, Board of Supervisors materials, regulatory and legislative documents, media stories and analyses thereof, materials published by organizations in which the County is a member, and reports published by similarly situated counties.
- Interviews of County employees identified as having broadband responsibilities.
- Interviews of the senior County elected and non-elected officials.
- Interviews of non-County employees and official stakeholders.
- Development of facts, findings, and recommendations.
- Drafting a Final Report.

DISCUSSION

Few Napa residents can forget how the 2017 and 2020 wildfires caused vast hardship and devastation across the County, or how the ongoing Covid pandemic has changed lives. During these events, too many in Napa realized that there were significant internet limitations affecting the ability of County residents to communicate with others, receive health care/advice, educate children, obtain government services, work at jobs from home, or operate businesses. In many cases, the cause of this was the absence of fast, reliable, and affordable broadband service. There is a digital divide across our County due to factors including geography, socioeconomic status, and inconsistent service by ISPs which is intolerable. Worse, it is a gap which appears to be growing.

This is not a new problem. As the Federal Communication Commission (FCC) recognized in 2010, “Broadband is the great infrastructure challenge of the early 21st century. Like electricity a century ago, broadband is a foundation for economic growth, job creation, global competitiveness, and a better way of life.”⁵ Yet despite such pronouncements, including numerous comments from County leadership echoing the FCC’s utility sentiment to the Grand Jury,⁶ the County has made painfully slow progress since the 2017 fire to ensure improved broadband access for County residents, and only recently began ramping up its efforts.

⁵ Federal Communications Commission, National Broadband Plan, Executive Summary (<https://transition.fcc.gov/national-broadband-plan/national-broadband-plan-executive-summary.pdf>).

⁶ See also, Berry Eberling, “Napa County worried about spotty cell, Internet service, especially in emergencies,” *Napa Valley Register*, November 21, 2018. One County supervisor is quoted as saying, “We need to treat it the same as water. We need to treat it same as electricity, heat, garbage services,” and another said “Our goal here is to have this kind of access be like landline access was treated in the 1930s . . . Everyone should have it.”

It is unclear whether some of Napa’s cellular and internet infrastructure and service have even recovered to 2017 service levels.⁷ Those fires destroyed cellular towers, impeded much of the County’s electrical service, and often left emergency responders unable to use their phones or the internet to ascertain the extent or location of the fires. Perhaps more critical, responders were often left with few alternatives but knocking on doors to alert the affected public with vital warnings to evacuate and provide information regarding the progress of the fires. In many cases, emergency responders, county residents, and businesses had no reliable means of communication with the outside world for days - many for much longer.

Most parents will also recall their distress as the pandemic shut down schools, forcing their children into virtual learning. Unfortunately, for some their distress was far greater since they could not afford reliable internet access or perhaps lived in rural areas not serviced by an internet carrier.⁸ Imagine a child having to sit in a parking lot or on a bench outside a business just to access the business’ free wi-fi in order to participate in school or do their homework. Even worse, imagine a young child living in those parts of the County that do not have any internet connectivity and being isolated for months at a time from even virtual contact with teachers or classmates, relying solely on hardcopy homework packets sent to his or her mailbox.

Interviewees provided reports of senior citizens with inadequate broadband access struggling to access needed health care through telemedicine or to find and schedule a Covid vaccination appointment. Others spoke of frustrated employees who were forced to work from home and unable to maintain a Zoom connection.. These and other similar examples make clear that fast and reliable broadband service is not a luxury, it has become a necessity for most of us.

There is good news. Californians are edging closer to what has frequently been described as a once-in-a-generation investment in broadband from both State and Federal sources. Of particular note is California Senate Bill 156,⁹ which provides approximately \$5 billion for broadband development in the State, and the Federal Infrastructure Investment and the Jobs Act, which

⁷ It is not easy to ascertain the facts regarding recovery since the County is reliant on ISPs, who are not forthcoming or transparent. The Grand Jury heard from several sources that the County is, as one official put it, “no better, or slightly worse,” than before the fires. *See also*, the Magellan Infrastructure and Recommendation reports state that large areas of the county lack cell phone coverage. Places such as Aetna Springs, Chiles Valley, Pope Valley and Wooden Valley appear to effectively have no high-speed internet. *See also*, Napa County 2022 State Legislative and Regulatory Platform, (<https://www.countyofnapa.org/DocumentCenter/View/6495>), p.8, wherein the County supports requiring increased transparency from telecommunications service companies, like ISPs, regarding infrastructure damage after a disaster, such as the fires.

⁸ For a more detailed discussion of various perspectives on equity and broadband *see*, Kevin Taglang, “Broadband Equity: Addressing Disparities in Access and Affordability,” *Benton Institute for Broadband and Society*, May 6, 2021 (“Not all households in the United States can subscribe to home internet service, sometimes due to non-existent or inadequate infrastructure and other times due to the inability to afford the cost of service. While a higher share of rural households lacks a broadband subscription compared to the share of urban households, by total numbers, three times as many non-subscribing households are located in non-rural areas. And while 80 percent of White adults report having home broadband, this is true of only 71 percent of Black adults and 65 percent of Hispanic adults).

⁹ Governor Newsom Signs Historic Broadband Legislation to Help Bridge Digital Divide (SB 156), (<https://www.gov.ca.gov/2021/07/20/governor-newsom-signs-historic-broadband-legislation-to-help-bridge-digital-divide/>).

allocates approximately \$65 billion to help enable fast and reliable high-speed internet.¹⁰ The amount of funds becoming available for broadband access improvement is extraordinary.

However, Napa County faces critical questions: *how prepared is it to compete for these funds, and will the County have the wherewithal to make productive use of the funds if they are awarded to Napa?* As one senior County official indicated, to win grants you have to compete and “be an attractive recipient.” Unfortunately, the Grand Jury found that the County is not yet as prepared to compete as it could be and currently exhibits few characteristics that could be characterized as “attractive.” On issues from broadband strategic planning to organization and staffing, to local partnerships, and community and stakeholder involvement, the County’s stance for several years has been more reactive than proactive, thus “unattractive”. Given the scale of the need throughout both California’s rural and urban counties for broadband investment, the competition for grants will be intense as other County governments, agencies, and even private ISPs,¹¹ seek a piece of the funding as the monetary flood gates open.

To be fair, it is not as though the County has done nothing and there are passionate County leaders (both elected and non-elected) who are both concerned and are trying to do something about improving broadband access. The County has participated with neighboring counties in the North Bay/North Coast Broadband Consortium (NBNCBC),¹² and more recently, through its membership in the Rural County Representatives of California (RCRC),¹³ joined the Golden State Connect Authority (GSCA).¹⁴ The GSCA is a joint powers authority (JPA) designed by the RCRC for the purpose of increasing access to reliable, affordable high-speed broadband for all rural Californians. The County also engaged Magellan, who, as stated previously, published two

¹⁰ Edward Booth, “Rep. Mike Thompson highlights Federal investments into broadband infrastructure,” *Napa Valley Register* Jan. 8, 2022 (“It’s the largest funding the Federal government has ever provided for broadband expansion,” Thompson said.”); *see also*, Fact Sheet: The Bipartisan Infrastructure Deal (<https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/06/fact-sheet-the-bipartisan-infrastructure-deal/>).

¹¹ Historically ISPs have successfully sought and obtained state and federal grants and funds to expand or improve their equipment or service areas. Moneys have often been allocated to these providers without any coordination with or approval by local governments. In California, even though public funds have typically paid for these improvements, the ownership of these assets is transferred to the provider upon work completion. With regard to the new funding coming available, it is unclear at present whether proposed CPUC rulemakings will require County signoff on proposals from private providers. Such a signoff requirement provides greater public input and better ensures that broadband accessibility improves in underserved or is extended to non-served areas. Given the unwillingness of ISPs to be transparent, and their obvious commercial motivations, local governments should not expect ISPs to solve their broadband access issues or use grant funding to the benefit of all their residents.

¹² The NBNCBC is a regional consortium made up of Sonoma, Marin, Mendocino, and Napa counties. It is funded in part by a grant from the California Advanced Services Fund (CASF) Rural and Urban Regional Broadband Consortium Grant Account. The stated vision of the NBNCBC is “to have the persistent digital divide in Marin, Mendocino, Napa, and Sonoma counties eliminated.” The mission of the NBNCBC, in part, is to “develop a strategic broadband plan for each county based on “last mile” community needs and integrate the county plans into a regional plan.” *See* <http://www.mendocinobroadband.org/wp-content/uploads/2.-NBNCBC-1st-Quarter-Report.pdf>.

¹³ *See*, <https://www.rcrcnet.org>. The RCRC currently has 38 member counties. Its economic development program has three main support focuses: (1) forest resiliency and fire prevention; (2) infrastructure (other than Broadband); and (3) Rural Broadband. It has recently focused significant successful efforts on obtaining state and federal funds that are directed towards improving the speed and reliability of broadband in rural areas and to assisting smaller counties to prepare themselves to compete successfully for funds to make that happen.

¹⁴ *See*, <https://goldenstateconnect.org/>.

reports.¹⁵ It more recently hired CBG Communications, Inc. (CBGC) to assist the County in developing a broadband road map and action plan. In addition, the County created an internal working group, composed initially of three employees who work on broadband-related issues part-time and who meet periodically¹⁶ to help formulate strategy and policy. In late 2021 the County held a meeting under the name of ‘The Napa County Broadband Partnership’ (NCBP), attended by an invited group of external stakeholders, composed of town and city officials, County agency, emergency response, medical, educational, and business representatives, and other interested parties. The County also recently included broadband as part of its 2022 State Legislative and Regulatory Platform as one of roughly forty Priority 2 subjects.¹⁷

It is also important to note that local governments have little authority or wherewithal to meaningfully participate in broadband issues. The primary entities that regulate the industry are the FCC and the California Public Utilities Commission (CPUC). Those two entities have attempted to incentivize or (when they can) require ISPs to improve access to underserved or non-served areas, but the improvements necessary to do so are usually very expensive and would not be cost-effective from the ISPs’ perspective. As a result, regulators’ efforts have often been unsuccessful. County and local governments have had little regulatory authority or money to affect where broadband infrastructure is located within their boundaries. Their involvement with ISPs has mostly been relegated to responding to things like provider requests for public right-of-way use and design or land use commission reviews for proposed tower locations. ISPs typically decide who gets what service since they own the equipment and usually make decisions about where it is located and how it is used.¹⁸

However, things are changing, and the County should be better prepared. In fact, as early as 2018, the NBNCBC (the County being a participant) published a report in the aftermath of the 2017 Northern California wildfires that said, “It is evident there is not enough public attention or awareness directed towards telecommunications issues in the affected counties.”¹⁹ The NBNCBC recommended that counties develop (a) a “*broadband strategic plan . . . with input from all stakeholders*,” (b) “*review internal processes* for all telecommunications related procedures and identify more efficient solutions to effectively deploy broadband,” and (c) form “*public-private*

¹⁵ See, The Infrastructure Assessment Report and the Recommendation Report.

¹⁶ Two part-time County employees were added just recently: an analyst in the County Executive’s office and an employee associated with the Lake Berryessa concession (an area with limited broadband access).

¹⁷ The Platform also contains another 5 Priority 1 items.

¹⁸ With respect to ISPs, it’s important recognize that their interests do not necessarily align with that of the County or its residents. Data provided to the CPUC by private ISPs about broadband availability in Napa County prior to 2017 incorrectly indicated that much of the population of the County had fast and reliable broadband. Magellan found in its Infrastructure Assessment Report that while more densely populated areas are reasonably well served by ISPs, who offer internet speeds that meet FCC minimums, large portions of the East County and smaller pockets along the Western County border were underserved or unserved. Even in more populated areas, like the towns of Napa and St. Helena, the speed and reliability of cellular and broadband service can differ markedly from neighborhood to neighborhood, and block-to-block. In addition, connectivity options through providers may not be affordable for rural and/or lower income residents (e.g., options like satellite connectivity in rural areas).

¹⁹ NBNCBC Telecommunications Outage Report: Northern California Firestorm 2017 (2018), p.8 (<https://ecfsapi.fcc.gov/file/1053130424752/EAS-1.-NBNCBC-Telecommunications-Outage-Report-2017-Firestorm.pdf>).

*partnerships among county and local governments and providers . . . to coordinate goals and pursuits.”*²⁰ The report also noted that with respect to loss of communications (e.g., cellular, landline and internet) during the 2017 fire, “*Napa County experience[ed] the most severe impacts.*”²¹

The 2020 Magellan Recommendation Report, created for the County, also echoed similar recommendations, including (a) prioritizing opportunities based on “Napa County *strategic goals and issues,*” (b) *formally assigning responsibility* for promoting and tracking broadband development to a *County agency or department,* (c) developing *organizational capacity* to engage. . . stakeholders,” and (d) *review policies* since “a cursory review of the County code suggests there may be multiple opportunities to promote network development via policy changes.”²²

Despite these recommendations made four years ago by the NBNCBC and two years ago by Magellan, the Grand Jury found little indication that the County’s leaders have a real sense of urgency to undertake the recommended actions.²³ None of the NBNCBC and Magellan recommendations would require significant public expenditure; the actions recommended could have been completed by now. All recommendations are needed sooner than later to better position the County to compete for additional funding and then make productive use of any funds that are awarded.

We recognize that many aspects of providing broadband access will require significant investment and the participation of the State or multiple jurisdictions. But that does not prevent the County from starting now to develop a strategic plan that will inform critical choices, prioritize public investments in alignment with strategic goals, provide positions on critical issues like reliability and affordability, influence planning and decision making, and create personnel and governance structures to execute the County’s vision.

After numerous interviews and reviews of many documents, the Grand Jury has seen limited evidence that the County has worked to complete a strategic plan and it is significantly behind neighboring Counties with respect to planning and communication with stakeholders. Multiple County officials told the Grand Jury that it does not have a broadband strategic plan; one individual even indicated uncertainty about where the County’s vision should come from.

The County’s current approach seems to be putting the proverbial cart before the horse, since it appears to be creating an action plan before developing a strategic plan. In a September 20, 2020 Board of Supervisors’ agenda letter (Agenda Letter), County staff stated the Magellan Assessment Report, is *not a strategic plan* and does not provide direction on how the above opportunities

²⁰ *Id.*, p.8.

²¹ *Id.*, p.6. The Magellan Infrastructure Assessment Report also estimated that the 2017 fires damaged: 25,000 feet of fiber-optic based network infrastructure, 300,000 feet of copper-based network infrastructure, and 21 cellular/fiber tower locations in the County.

²² *See*, Magellan Recommendation Report, pp. 62-64.

²³ In addition, there are other significant recommendations from both reports that are not discussed here because they would have required extensive public funds.

should be prioritized.”²⁴ But instead of recommending the creation of a County strategic plan, the Agenda Letter recommended that the “Board authorize a Request for Proposal to contract with a consultant(s) to develop an *action plan* based on the Assessment [Report], and apply for and seek grant funding to deploy broadband in priority areas and implement an action plan using future grant funding.”²⁵ Even this recommendation seemed to take a protracted period of time, since the County contracted with CBG in May 2021, nine months after the Agenda Letter.²⁶ That said, the Grand Jury was told that CBG is close to issuing a report and updating the Board of Supervisors.

The County is attempting to remedy its lack of a broadband strategic plan, which is acknowledged by interviewees as important. They have opted to join the GSCA’s application to the US Department of Commerce, Economic Development Administration (EDA) for grant funding to support the preparation of a strategic plan for the County. If successful, the GSCA will provide grant administration including project and fiscal reporting, as well as project management over the contractor hired by the grant. Unfortunately, as of the date of this report, the grant had not yet been awarded by the EDA. It is unclear when a plan will be completed and adopted if the grant is awarded or what the County will do if it is not awarded.

With the exception of Napa, all members of the NBNCBC developed broadband strategic plans for their counties. Nearby Marin, Sonoma, and Mendocino Counties all have county broadband strategic plans.²⁷ If broadband is a utility worthy of being a high priority, as many County leaders stated to the Grand Jury (and the other NBNCBC members found the funding to develop broadband strategic plans), why hasn’t our County developed its own plan?

Responsibility for broadband issues has not been assigned to any County agency or department, only an informal part-time workgroup. The Grand Jury saw no evidence that the County has reviewed its policies and procedures to identify how to speed up and/or simplify broadband implementation.²⁸ However, some interviewees were not sure what the Grand Jury meant when it asked whether policies and procedures have been reviewed, or why that might be necessary. Some interviewees mentioned that it might be useful to have a “dig once” policy similar to other counties. Another suggested that the policy might not be a good fit with County departments responsible for

²⁴ Napa County Board of Supervisors Board Agenda Letter from Chief Information Officer Information dated September 22, 2020 (<https://services.countyofnapa.org/AgendaNetDocs/Agendas/BOS/9-22-2020/10A.pdf>).

²⁵ *Id.*

²⁶ RFP-ITS112001---Napa-County-Broadband---Notice-Of-Intent ([countyofnapa.org](https://www.countyofnapa.org)).

²⁷ See Mendocino County Digital Infrastructure Plan: 2019-2025 (<https://www.edfc.org/wp-content/uploads/2015/12/Final-Digital-Infrastructure-Plan-for-Mendocino-County-12.31.18.pdf>), Digital Marin Strategic Plan, (<https://godigitalmarin.org/strategic-plan/>), and Sonoma County Broadband Strategic Plan (<http://www.mendocinobroadband.org/wp-content/uploads/Sonoma-County-Broadband-Strategic-Plan.pdf>) Sonoma has also had its Access Sonoma Broadband Program for several years. See Access Sonoma Broadband (<https://sonomacounty.ca.gov/EDB/Access-Sonoma-Broadband/>).

²⁸ As noted in Magellan Recommendation Report, “County policies and processes can create barriers” and “inconsistent policies regarding local cities and neighboring counties impedes investment.” p.p. 64-65. For a more robust discussion of how policies and procedures can impact broadband development see the Sonoma County Broadband Strategic Plan, p.p. 104-5.

road construction and their funding authorities.²⁹ A review of policies and procedures that impact broadband development, in order to see if there are opportunities to simplify processes or speed approvals, seems like an important, low-cost, proactive action that the County could take in order to be better prepared to compete for broadband grant funding.

In addition, the Grand Jury could not identify any single County employee who is assigned to work full-time (or even a majority of their time) to move the County broadband agenda forward. In fact, when asked what steps the County could take, one senior County official agreed that acquiring and implementing broadband grants will take, in their words, “administrative infrastructure . . . which requires hiring people.” It seems likely that State and Federal grant funds will go to projects that are more shovel-ready, consistent with a clear strategy for that county, or supported by multiple agencies or stakeholders in the County, all of which take resources to organize.

As noted above, the Grand Jury did identify a working group comprised of County employees who were engaged part-time on issues related to broadband.³⁰ While the Grand Jury found members of the working group talented and clearly attuned to many of the relevant issues, all of them have significant primary job duties (and in some cases substantive secondary responsibilities as well). They cannot possibly spend sufficient time moving the very complex broadband agenda forward.³¹ A common refrain heard by the Grand Jury from many County officials was “we are spread thin.”³² Most likely, this group does not have the time or the knowledge to prepare a “queue” of broadband projects that could be shovel-ready, in preparation for grant funding. Neither would they be in a position to manage the implementation of any project that was funded. It also does not have time to organize or run a more active stakeholder group. The result of this lack of staffing is likely to be a significant loss of state and federal broadband funding for Napa.

To remedy this staffing problem, the County should designate a lead agency or department, and staff it with knowledgeable full-time resources with an adequate budget. It is the Grand Jury’s

²⁹ “A ‘Dig Once’ Policy can be an important tool that can be utilized to maximize the efficiency and lower the cost of public works and infrastructure projects through combining efforts. For example, during road construction, installing conduit or conduit with fiber, at the same time as other trenching, reduces the cost of installing fiber and means that the road won’t have to be torn up to install it at a later date. This tactic can be used around any kind of sewer, water, or electrical infrastructure work.” Mendocino County Digital Infrastructure Plan: 2019-2025, p. 25.

³⁰ It is unclear to the Grand Jury whether this working group is the “Broadband Task Force” recommended in the Magellan Recommendation Report and that is a requirement of the grant application made by the GSCA to the EDA. The Magellan Recommendation Report describes the Broadband Task Force as “an inclusive body” with a “formal process to acquire resources, guide development, and provide oversight for network infrastructure.” See Magellan Recommendation Report, p. 62.

³¹ See Pew Charitable Trust, *How States Are Expanding Broadband Access: New Research Identifies tactics for Connecting Unserved Communities*, 2020 (<https://www.pewtrusts.org/en/research-and-analysis/reports/2020/02/how-states-are-expanding-broadband-access>) (“Having staff dedicated to broadband is important to avoid having work on the issue become ‘other duties as assigned.’ Staff who are focused on broadband can develop expertise. And assigning them to the issue creates accountability and responsibility and provides stakeholders with a point of contact”).

³² The Grand Jury is cognizant that the Covid pandemic has severely stretched many County resources. Members of the working group also have significant pandemic response duties and they are to be commended for their dedication to public service.

understanding that the County is taking initial steps toward establishing a full-time project manager; additional human infrastructure is vital to allow the County to organize its thoughts and efforts and better compete for and obtain available Federal or State funds. However, if the County does not adequately staff and manage the broadband issues, it will almost certainly miss out on funding opportunities which is a fear expressed by some of those interviewed by the Grand Jury. As a result, the fate of County residents' broadband future may remain in the hands of private ISPs, whose motivations are often misaligned with the interests of the County and its residents.³³

In addition, the County has not meaningfully engaged the County's towns, cities, medical, education, emergency response, businesses, and other stakeholders. It also has not provided a mechanism for citizen input about broadband issues.³⁴ The County cannot address reliable and fast broadband for County residents on its own and must work collaboratively with these parties and entities. The Grand Jury found no evidence of significant attempts at engagement by the County prior to a single stakeholder briefing given in late 2021. It did not meaningfully engage some of the primary stakeholders affected by the 2017 and 2020 fires or issues related to the Covid pandemic. In the case of one stakeholder, whose entity is heavily reliant on consistent broadband service, the Grand Jury was told that it is hard for them to plan or make investments of any kind when it is not known what the County may or may not do. Others indicated that they have had to expend significant amounts of their own money on contingency planning, based on that uncertainty.

Stakeholder engagement is critical because, as one senior County official told the Grand Jury, collaboration is often important to successful grant acquisition, i.e., to be "attractive." In the November 2021 NCBP briefing, the County described to invited attendees the status of County broadband efforts.³⁵ In a presentation shown at the meeting, the importance of improving the competitive stance of the County through collaboration was highlighted.³⁶ While the attendees interviewed by the Grand Jury thought that the meeting was a positive development, none were clear about (a) the group's purpose, or (b) whether it was intended to be an ongoing forum. The County conducted a follow-up survey after the meeting. However, the Grand Jury has learned that

³³ Based on multiple interviews, it is apparent to the Grand Jury that the County appears to be consciously taking a very conservative fiscal approach to broadband, and eyeing it from a transactional perspective (e.g., waiting to see if it can obtain grant funding for a strategic plan, or to hire full time staff) versus an ongoing requirement that must be sustained. Hopefully this is changing based on recent steps. The County appears to be considering whether to hire a project manager (e.g., creating a job description, having discussions with Sonoma and San Francisco Counties regarding their broadband positions).

³⁴ Stakeholder engagement was a recommendation made in the Magellan Recommendation Report and the NBNCBC Telecommunications Outage Report: Northern California Firestorm 2017.

³⁵ Attendees included representatives of educational, public safety, medical, transportation, and business entities, along with local towns and cities.

³⁶ See Napa Countywide Broadband Partnership Meeting Presentation, November 3, 2021, pp 3-4. The presentation also highlighted the actions taken by the County from 2014 to 2021 "to increase broadband service". *Id.*, p.2. To the best of the Grand Jury's knowledge, over the course of the 7 years highlighted, no actions articulated (e.g., from joining the NBNCBC in 2014 to "Action plan and roadmap with CBG" in 2021) led to a direct increase in County broadband service. In addition, the reference to CBG refers to a plan and roadmap that the NCGJ understands is still in development as of the date of this report, and not one that was published in 2021.

the forum is unlikely to be an ongoing entity, at least in the near term. Unlike Napa County, other Northern California counties have had broadband stakeholder groups for several years that meet regularly.³⁷

An effective and active stakeholder task force would have a written purpose, scope, and timeline known and agreed upon by its members. It could (a) assist the County in developing a vision and strategic plan that addresses the needs of residents, local agencies, and commercial entities, and (b) help coordinate local partnerships to acquire grant funding and resolve project implementation issues. The task force could also foster community support and cooperation for the County's digital future. This may require forming one or more JPAs, developing a Memoranda of Understanding, or engaging other entities to achieve the County's goals, and it will certainly require the County and its stakeholders to reach consensus with respect to broadband issues, including a common vision and view of roles and leadership.

The Grand Jury also observed insufficient awareness on the part of senior County officials³⁸ of the critical broadband issues and the choices that they are likely to confront. To be fair, there are senior County officials who are well-versed about broadband issues, including one who has been actively involved in the NBNCBC and RCRC for several years, but is retiring at the end of 2022. However, others who will be key decision-makers appeared unaware of the significant activities or priorities of groups like the NBNCBC, RCRC, and GSCA or many details about recent broadband infrastructure funding sources. For instance, one key GSCA project is to help foster the installation and operation of open-access, municipal broadband infrastructure. The significance of this project is that it could help finally to bring broadband services to areas where it has not been economically viable for private providers to extend services. In these areas, some form of local public entity might install and end up owning and managing the broadband infrastructure, which would be a significant departure from past practices. ISPs could lease a connection to this publicly owned infrastructure and extend their services to remote areas in an economically viable manner. Even though Napa County is a participant in the GSCA, the Grand Jury found that most elected and senior County officials interviewed were not well-versed about the GSCA's and the RCRC's initiatives, including those involving public versus private ownership. Possibly for that reason alone, they appear to have a distinct bias against public ownership. The Grand Jury is not taking a position on the private versus public ownership issue, but this seems to be one of several strategic issues for which the County should develop a thoughtful position after significant briefing and discussion, and address as part of a strategic plan.³⁹

Conversely, as opposed to focusing on strategic issues, the Grand Jury found that some senior County officials seemed to have perspectives that were very tactical and narrow and had little understanding of broadband-related issues. The Grand Jury perceived hesitancy to take proactive steps for fear of increasing payroll and related expenses, and that a good starting point might be if ISPs came to the County and offered a plan for expanding broadband access, stating what they needed. The Grand Jury does not believe that this would be a good approach. If history is any

³⁷ See, e.g., Broadband Alliance of Mendocino County (<http://www.mendocinobroadband.org/about/>).

³⁸ To be clear, the Grand Jury is not referring to members of the working group referenced earlier.

indication, it is very doubtful that any provider will provide a plan that places the interests of all County residents ahead of the ISPs' profit motivations.

There are many ways that the Board of Supervisors and County Executive could better educate themselves on broadband issues and choices in order to provide more effective leadership, especially in light of the impending retirement of one key member who has been the Board member most actively involved in broadband issues for years. The provision of fast and reliable broadband services to all County residents is a very complicated undertaking fraught both with a shifting political environment, significant choices (e.g., public versus private), and a dynamic technological landscape. In order to provide informed guidance regarding policy direction and the organization of local government, the Board of Supervisors and County Executive need to develop a greater understanding of the County's digital needs, choices, and potential. This includes activities like regularly being briefed on progress towards completing the County's strategic plan by full-time County staff whose function is to move County broadband issues forward. The BOS could also benefit from regular briefings on RCRC and NBNBCB broadband initiatives. It could also gain valuable insight and stakeholder buy-in by making the NCBP an ongoing entity, emphasizing its role and importance by having briefings by its representatives, participating in NCBP events, and seeking its input.

In summary, the Grand Jury believes that the County should be better prepared to compete for the once-in-a-generation funding that is becoming available. The County has not yet attained momentum with respect to improving broadband access for County residents. While wildfires and the pandemic have vividly illustrated the necessity of fast and reliable broadband for all residents, and County leaders express enthusiastic support for the notion of broadband for all, the County's actions demonstrate that broadband is not a high priority. The Grand Jury understands the County's limited power and resources to address on its own the enormous costs associated with connecting all of its residents. We applaud the efforts of a few dedicated County employees, all with significant other primary responsibilities, who have somehow found time to drive these issues forward. Now is the time for reinforcements and renewed effort. There are several actions that the County could have taken and should take now. Many do not require significant capital expenditures and could have been undertaken before the pandemic. If broadband is as important as electricity or water - and the Grand Jury believes that it is--it warrants a much higher priority and the immediate attention of senior County leadership to ensure that Napa is prepared to compete for funds and make productive use of any received. Napa must not waste this opportunity to close the digital divide and position the County for its digital future.

FINDINGS

- F1. Recent fires and the pandemic have demonstrated that all County residents need access to fast, reliable, and affordable broadband.
- F2. The digital divide in the County (and the challenges and inequities it exacerbates), has not been significantly narrowed since the 2017 fires; in fact, it may have widened.
- F3. While most County leaders interviewed expressed support for fast and reliable broadband for all County residents, analogous to a utility, few articulated any substantive perspective on how to achieve this goal or what steps have been taken to do so.

- F4. In the past year, the broadband funding landscape has changed dramatically with Federal and State governments set to distribute billions of dollars through competitive grants to local governments and private providers.
- F5. The competition for broadband grants from other public entities and Internet Service Providers (ISPs), whose interests may not complement Napa County, is sure to be fierce.
- F6. Winning broadband grants will require the County to be prepared to compete. This will take extensive planning, adequate staffing, and coordination with County's cities and towns and other stakeholders.
- F7. The County's leadership has not devoted sufficient time and resources to broadband strategic planning. Leadership is insufficiently aware of the decisions regarding strategic and tactical options and choices that they will need to soon make and has not demonstrated adequate urgency considering how soon the funding process will begin. Waiting for that process to be fully defined before taking action will leave the County even further behind at the starting gate.
- F8. Despite recommendations urging it to do so as early as 2018, the County has not developed a broadband strategic plan that sets forth its vision and includes priorities, defines the choices that will need to be made, and provides for personnel and a governance structure.
- F9. The County has not taken steps, as recommended by its consultants, to establish a lead County agency or department to review local policies affecting broadband across various County jurisdictions to ensure they are consistent, sensible, and broadband-friendly.
- F10. The County has only allocated part-time staff resources (for whom broadband is only one of many important roles), to work on broadband issues, whereas other similarly situated counties appear better prepared, staffed, and are much further along in their planning processes.
- F11. Unlike neighboring counties, the County, its cities and towns, and other stakeholders have only recently started communicating with each other regarding their broadband needs. They do not seem prepared to coordinate strategies, development, the pursuit of grant funding, or project implementation.
- F12. The NCBP does not have a clearly articulated purpose or agenda that is understood by its participants and does not yet appear to be an effective stakeholder group.
- F13. While the County's involvement with the RCRC, NBNCBC, and GSCA is positive, the speed with which the County is moving seems to be stuck in an out-of-date paradigm, when State and Federal funds were largely unavailable, and local agencies did not play a significant role in efforts to extend fast and reliable broadband availability.
- F14. There are no established ongoing forums for County residents, businesses, governmental units, schools, medical and emergency response, and others to identify and communicate with County leadership about their broadband needs, except about one-off access or service complaints.
- F15. The County has no priorities or queue of broadband projects that are "shovel-ready" for implementation, nor any resources available to identify such projects or supervise their implementation if they are funded.

F16. Without proper preparedness to compete for broadband grant funding (including a coherent strategic plan, adequate staffing, resources, and County-wide stakeholder coordination) the County may not be as successful at acquiring funds as it should be, and efforts may remain ad hoc and passive.

RECOMMENDATIONS

R1. The Board of Supervisors and County Executive should, no later than October 1, 2022, prepare and execute a plan to better educate themselves about broadband issues and the choices that must be made.

R2. The County should develop and publish a Strategic Plan no later than December 1, 2022, that is not simply a list of possible projects proposed by contractors or private providers, but instead includes, at a minimum, (a) a County vision for broadband that addresses issues like reliability and affordability, (b) the specific broadband access and performance enhancement goals it expects to achieve, (c) the County's priorities (so that, if needed, choices can be made), (d) how the County plans to accomplish those goals, and (e) the County staffing and governance structure to implement and oversee the plan.

R3. The County should, no later than October 1, 2022, designate a lead agency or department, staff it with knowledgeable full-time resources, including a broadband project manager, and provide an adequate budget to help the County define its vision and priorities, understand grant authorities' policies and application procedures, coordinate with stakeholders, and prepare to compete for State and Federal funding in a well-organized, non-ad hoc fashion.

R4. The County should, no later than December 1, 2022, create an effective and active stakeholder task force with a written purpose, scope, and timeline understood and agreed to by its members. The task force should (a) actively assist the County in developing a vision and strategic plan that addresses the needs of residents, local agencies, and commercial entities, and (b) help coordinate local partnerships to compete for, acquire, and implement grant funding.

R5. The County should, no later than December 1, 2022, establish and actively foster ongoing forums for County residents, businesses, government, schools, and medical and emergency response entities to provide input and communicate with County leadership about their ongoing broadband access and telecommunication needs.

REQUEST FOR RESPONSES

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

- Napa County Board of Supervisors (R1, R2, R3, R4, R5)
- Napa County Chief Executive Officer (R1, R2, R3, R4, R5)

GLOSSARY

- CASF – California Advanced Services Fund
- CBG – CBG Communications, Inc.
- CPUC – California Public Utilities Commission
- DEICCF – Digital Equity Initiative California Community Foundation
- DSL – Digital Subscriber Line
- EDA – US Department of Commerce, Economic Development Administration
- FCC – Federal Communications Commission
- GIS – geographic information system
- GSCA – Golden State Connect Authority
- ISP – Internet Service Providers
- JPA – Joint Powers Authority
- Mbps – Megabytes Per Second
- NCBP – Napa County Broadband Partnership
- NBNCBC – North Bay/North Coast Broadband Consortium
- RCRA – Rural County Representatives of California

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