



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: September 4, 2013

IBA Report Number: 13-37

Land Use and Housing Committee Meeting Date: September 11, 2013

Item Number: TBD

Response to Grand Jury Report: “Improved Access to Land Survey Records and Monuments”

OVERVIEW

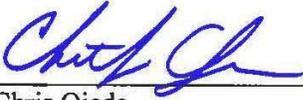
On May 1, 2013, the San Diego County Grand Jury filed a report with the San Diego Mayor and City Council entitled “Improved Access to Land Survey Reports and Monuments.” The goal of the report was to determine whether land survey services in the City and County are serving the public, as the law requires.

The Grand Jury Report included 12 findings and 6 recommendations; one of the findings was directed to the County of San Diego, while the remaining 11 findings and all of the recommendations were directed to both the Mayor and City Council. The Mayor and City Council are required to provide comments to the Presiding Judge of the San Diego Superior Court on each of the findings and recommendations relating to their respective items in the Grand Jury Report within 90 days; however, the City requested and was granted a 60-day extension. The response is due to the Presiding Judge on October 11, 2013.

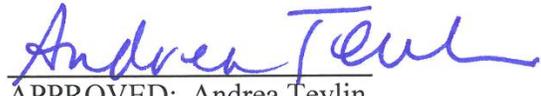
For each finding and recommendation directed to the City Council, the Council may (1) join the Mayor’s response; (2) respond with a modification to the Mayor’s response; or (3) respond independently of the Mayor. Our office obtained a copy of the Mayor’s draft response and has provided input and worked collaboratively with City staff. We have reached agreement on all responses. Therefore, the IBA is recommending that Interim Mayor Todd Gloria and the City Council provide a joint response to this Grand Jury report. The full text of the joint response is included as Attachment 1 to this report.

In responding to each Grand Jury finding, the City is required to either (1) agree with the finding or (2) disagree wholly or partially with the finding. Responses to Grand Jury recommendations must indicate that the recommendation (1) has been implemented; (2) has not yet been implemented, but will be in the future; (3) requires further analysis; or (4) will not be

implemented because it is not warranted or is not reasonable. Explanations for responses are requested when applicable.



Chris Ojeda
Fiscal & Policy Analyst



APPROVED: Andrea Tevlin
Independent Budget Analyst

Attachments:

1. Recommended City Council Responses to Findings and Recommendations in San Diego County Grand Jury Report entitled “Improved Access to Land Survey Records and Monuments”
2. San Diego County Grand Jury Report entitled “Improved Access to Land Survey Records and Monuments”

**Proposed Mayor & City Council Response to San Diego County Grand Jury Report:
Improved Access to Land Survey Records and Monuments**

Pursuant to California Penal Code Section §933 (c), the City of San Diego provides the following responses to the findings and recommendations included in the above referenced Grand Jury Report.

Responses to Findings and Recommendations

FINDINGS

FINDING 01: The County appears to perform a good job of serving the needs of the land surveying community.

The City agrees with Finding 01

FINDING 02: Many of the allegations and accusations about access to survey records were aimed at the City Records Office known as the 2nd Floor.

The City partially disagrees with Finding 02.

The Development Services Department's (DSD) Records Office, located on the 2nd floor of the City Operations Building at 1222 First Avenue, is a repository for all of DSD's many technical disciplines, including but not limited to Planning and Engineering. DSD's Records Office holds many different types of records including but not limited to construction plans, building permits, and survey records. Additionally, the records office serves many external customers, such as engineering firms, as well as internal customers such as the Public Utilities, Park and Recreation, and Public Works departments.

The Records Office serves as the starting point for most searches related to land use information. As such, the current process for handling requests for information is handled by public information clerks. The public information clerks act in a librarian role to retrieve, serve, and replace records for the public, however; the clerks do not interpret the content of the retrieved information. Upon receiving a request, the public information clerk searches for the requested information and if technical assistance is required directs the customer to the appropriate subject matter expert.

Since public information clerks are not versed in all technical terminology and concepts, there could be a delay when locating certain requested information. An instance where there has been difficulty in locating certain information may lead to the perception that the information has been lost. The City contends that these records have not been lost or misplaced, but that the exact location was not known by the public information clerk. As the requests for information vary due to the broad range of information and different media sources used within the DSD Records Office, it is not feasible for the customer service staff to be "experts" in all the information available.

The City acknowledges that additional training for staff in the various types of information and media sources would be beneficial and will continue to provide additional training for public information clerks. The City will monitor the number and types of requests it receives at the Records Office, and should it become clear that a large majority of the queries are related to a specific field, such as engineering or planning, DSD may consider adjusting the job classifications of customer service staff, considering both the potential benefits and the fiscal impact.

In addition to the availability of public information clerks and access to subject matter experts, the Records Office has a self-help area that has digitized survey records available through a computer terminal and survey records on IBM punch card-style aperture cards.

FINDING 03: Physical storage of maps and microfiche files at both Aero Drive and the 2nd Floor is chaotic to the casual observer. The filing system tends to depend on the memory of the clerks and relies on 1950's technology and library practice.

The City partially disagrees with Finding 03

The DSD record office stores records related to land surveys in various media sources, including digitized records, records on microfiche, and records on aperture cards. Additionally, some specific land survey information such as field notes and tie sheets are stored at the Field Engineering Operations facility (Field Surveys) located at 9485 Aero Drive.

Though the various media sources may present an appearance of a “chaotic” record system, the City maintains some of the older record systems (aperture cards) as a courtesy for some customers. The City has moved toward digitizing and geo-coding survey records – all new incoming records are digitized and geo-coded. While the County of San Diego has moved to an exclusively online system, the City continues the dual system (digitized and aperture cards), as some customers are more familiar and have a preference for the older system. The aperture cards are a by-product of the digitizing system, therefore maintaining the dual system does not present a significant operational impact. In addition to digitizing survey records, the City has made tie sheet information available via the City of San Diego’s Public Works website. Also, all new field notes received are digitized.

The City stores field notes at the Field Surveys location. The City has scanned many of these field notes; however, as many of the older notes come from field books written in pencil in the early 1900’s, many of the notes cannot be scanned in a readable form. The City physically stores these field notes at the Field Survey location and makes them available to the public at that location. The City acknowledges that previously there has been some confusion as to that availability of these notes at the Records Office, but DSD staff has now implemented a program to direct customers to Field Surveys. DSD staff has begun a public outreach program to the appropriate stakeholders advising them of the new program, in an effort to reduce any future mis-communications.

DSD, within their current workload and priorities, has been working to develop computerized indexing to facilitate searching the available land survey information. DSD anticipates that an indexed system of the digitized information would make this information more easily accessible not only to the public but also City staff.

FINDING 04: Because the professional land survey community is a small percentage of the population served by the City Records office, many members of this community accuse upper management of not listening to or caring about the private sector surveyors who do research in City Records.

The City partially disagrees with Finding 04

As stated in the Grand Jury report, as a result of restructuring within DSD, the City created the City Land Surveyor position in September 2012. Prior to this change, the land surveying duties were split between two senior land surveyors embedded in two different City departments. This presented issues of consistency in dealing with customers and developing surveying-related policies.

The recently created City Land Surveyor position, with increased access to department directors, has begun taking steps to increase stakeholder input and has presented unified policies for better customer service.

The City Land Surveyor has established a goal of having public semi-annual industry meetings to discuss and receive input on various topics related to land surveying. DSD staff has developed a list of various potential stakeholders, including engineering and surveying firms, to inform them of the semi-annual meetings. In addition to the semi-annual meetings, the City Land Surveyor is developing four subcommittees, including one related to City records, which will meet and discuss narrower topics. It is anticipated that these subcommittees will be headed by non-City employees to allow for a wide perspective and will report to the public during the semi-annual industry meetings.

As stated in the Grand Jury report, “The Grand Jury is optimistic that City survey policy and practice will improve under the guidance of new leadership.” DSD has changed some policies dealing with monument perpetuation and is reviewing how to better serve customers regarding the issue of public records.

FINDING 05: The City land survey records system is difficult to use and results in extra work, costing both the private and public sectors additional money.

The City partially disagrees with Finding 05

The City acknowledges that there could be some benefit to expanding the capabilities of the current records system, such as providing certain information online. However, DSD has implemented several new programs previously mentioned, such as providing additional training to the public information clerks, establishing public semi-annual industry meetings for the

professional community, digitizing all newly received land survey records, field notes and tie point sheets, and initiating the development of an indexed system.

The cost of an upgraded system conversion cannot currently be supported by the fee structure which supports the DSD Enterprise Fund. The City would need to evaluate how to pay for such an upgrade – for example through the DSD Enterprise Fund, the General Fund, and/or through departments that initiate the creation of records. Considering whether to upgrade the system to a Geographic Information System that could be accessed online, for example, would require further analysis. The cost would need to be weighed against the benefits of a new system. As noted in the Grand Jury report, land survey records make up less than 5% of City records. General requests for survey records are about 15% of DSD’s walk-in customer transactions for records. Most requests for survey records are related to activity surrounding current and recent construction.

FINDING 06: This apparent lack of fire protection and personnel fire safety is disturbing.

The City partially disagrees with Finding 06

The Records Office, located on the second floor of the City Operations Building, was and is exempt from fire sprinkler requirements, based on the code at the time it was built and the current code (2010 California Building Code). The facility located at 9485 Aero Drive is also exempt from fire sprinkler requirements based on the current code. There are several fire extinguishers located throughout the areas where the records are stored at both locations. The City maintains hard and electronic copies and less frequently used originals offsite as a precaution.

FINDING 07: There appears to be no systemic problem with private surveyors seeking and obtaining copies of records they want. In the past there may have been failures of communication. There may have been misunderstandings about what the City can and should provide to the public to private surveyors.

The City partially disagrees with Finding 07

The City acknowledges that there have been previous misunderstandings, however the City has taken steps to address this issue. See responses to Finding 02, Finding 03 and Finding 04.

The Grand Jury Facts section states that the “private sector surveyors want easier access to tie point sheets and field notes.” The City has recently posted tie point sheets online (complete with an index sheet) so that the general public has free access to this information. <http://www.sandiego.gov/publicworks/edocref/index.shtml>

The Grand Jury Report Facts section also states that the “field notes are not included in the formal survey records.” The City Land Surveyor believes the field notes should **not** be included in their native state on the formally filed document. The information depicted on the field notes is what is used to construct the boundary, etc. on the formally filed survey records. Field notes,

although not required to be included in the formally filed map, may contain information valuable to land surveyor industry professionals. Sometimes this information is helpful for land surveyors in retracing the previous survey when evidence in the field has been destroyed.

As stated in the response to Finding 03, newly received field notes are scanned in order to provide a digitized version. However, due to the inability to scan some of the older field notes into a readable form, the City maintains the field notes at the Field Surveys location to provide one defined location to view this information.

Lastly, the Grand Jury report states “Some documents, especially the quasi-legal documents such as field notes or tie point sheets, are not always available at the 2nd Floor. Documents held at Aero Drive are not available to the public, but are available to City surveyors and engineers.” This statement is not correct. If a member of the public contacts Field Surveys looking for field notes, they will be accommodated.

FINDING 08: Recent changes in personnel may help alleviate lack of communication between the City and industry workers. Cooperation is likely to improve. Regular conversations about issues are likely to dispel misunderstandings.

The City Agrees with Finding 08

See response for Finding 04.

FINDING 09: The current City records access system is antiquated and cumbersome. The City needs to make changes to simplify the records acquisition process.

The City partially disagrees with Finding 09

See responses to Finding 02 and Finding 03.

FINDING 10: It may be inappropriate to place IT personnel in charge of records. Though IT is an important component of records keeping, an expert in IT may not have the expertise to implement a user-friendly records access system.

The City disagrees with Finding 10

The City is moving to digitizing the records it receives at the DSD Records Office. As such, the City is comfortable with an individual with IT experience and land development experience being in charge of developing and implementing changes or adjustments to the records system. The City has the benefit of having an individual managing the Records Office who has over 26 years of experience in working in land development departments and is familiar with records systems administration. This individual has been tasked with furthering automation efforts and creating accessible records and will be working with other staff, including the City Land Surveyor, as appropriate.

FINDING 11: The City has a responsibility to make sure survey monuments are being preserved properly. The City has a responsibility in the plan-check and permitting process and in administering private contracts for public works to be sure existing monuments are accounted for and new monuments are placed and properly recorded when needed.

The City agrees with Finding 11

DSD has made great strides to ensure that survey monuments are protected and will be replaced after construction has been completed. The City is currently finalizing a city-wide procedure to ensure that all projects are sent to Field Surveys prior to bid, which will ensure that all of the monuments are shown clearly on the plans. This procedure is scheduled to be finalized in fall of 2013. Components of the procedure include:

1. The monuments are actually shown on plan sets so that a contractor can see by simple inspection, the existence of a survey monument.
2. The plan sets include a note which states that the contractor will be responsible for any monuments destroyed by construction.
3. Final inspections, are placed on hold in DSD's tracking system, which will keep the applicant from obtaining a final inspection of the property until the monuments have been inspected and replaced and a either a Corner Record or Record of Survey has been filed.
4. Language is included in the private contacts for public works project with specifications indicating that individual contractor will be responsible for the monuments.
5. A standard monument note is placed on the plan set, (if any).
6. The Field Survey Section will physically inspect the monuments and make sure a Corner Record or Record of Survey has been filed prior to the inspectors signing off on the project.

FINDING 12: The City Records Office should make available on line access to all of the documents it manages related to development, permits and land surveying. City public documents should be available on line in a searchable database.

The City partially disagrees with Finding 12

See response for Finding 05.

RECOMMENDATIONS

The Grand Jury recommends the Mayor and the San Diego City Council:

13-13: Assign a specific individual to be responsible for identifying and implementing what type of electronic records system would be suitable for the needs of the City and serve the public by December 31, 2013.

This recommendation has been implemented.

As stated in the responses for Finding 04 and Finding 10, the City has identified positions and personnel that have been tasked with receiving input from the industry's professional community and furthering the City's efforts to automate DSD's record system.

13-14: Develop an action plan to identify suitable hardware and software to support a state-of-the-art digital geo-referenced GIS records system for city public documents related to development, permits and land surveying by June 30, 2014.

The recommendation requires further analysis.

As stated in the response to Finding 05, the cost of an upgraded system conversion cannot currently be supported by the fee structure which supports the DSD Enterprise Fund. The City would need to evaluate how to pay for such an upgrade – for example through the DSD Enterprise Fund, the General Fund, and/or through departments that initiate the creation of records. Considering whether to upgrade the system to a Geographic Information System that could be accessed online would require further analysis. The cost would need to be weighed against the benefits of a new system. As noted in the Grand Jury report, land survey records make up less than 5% of City records. General requests for survey records are about 15% of DSD's walk-in customer transactions for records. Most requests for survey records are related to current and recent construction.

As stated in the response for Finding 03, the City is currently digitizing and geo-coding records that are received by the DSD Record Office. DSD has initiated the development of a comprehensive indexing system, to be accessed through the City's current electronic technology, as a tool to provide a substantial improvement in accessing digitized records. Additionally, the City has identified steps to further improve customer service for land survey information requests. The automation efforts and improved customer service processes should provide adequate services to address future requests.

For the City to consider prioritizing the conversion of the City's current electronic record system, a comprehensive needs assessment, including input from various other City departments and outside stakeholders, would be necessary. An evaluation of the City's current capabilities, including the recently implemented automations and processes, would need to be conducted, as well as development of a list of desired capabilities that are available through either off-the-shelf systems or systems developed specifically for the City.

Once the current and desired capabilities have been identified, a cost estimate would need to be developed or acquired. At that point, an in-depth cost benefit analysis could be conducted, including identifying a funding source for the costs of the new system. As stated above, the current cost structure for DSD would not support the additional cost of a new records system. Additionally, the most appropriate funding source for such costs would need to be identified – which could potentially include the DSD Enterprise Fund, the General Fund and/or departments

that initiate the creation of records. The proposed costs for the new system could also be spread among the end users, such as customers requesting information including City departments.

DSD has taken steps to improve the records system using the City's current technology; however, should the City Council direct DSD to conduct further analysis for a new records system, DSD would need to either re-prioritize the current workload or potentially request additional funding to address the analysis.

13-15: Starting in the next budget cycle, and continuing over the next five budget cycles, allocate adequate funds to procure and implement a state-of-the-art digital, geo-referenced GIS records system for city public documents.

This recommendation requires further analysis.

See the response for Recommendation 13-14.

13-16: Develop an action plan to improve fire protection and personnel fire safety in areas where land survey records are stored by December 31, 2013.

Both facilities in which land survey records are stored meet the requirements of the current California Building Code with respect to fire protection. As noted in the response to Finding 06 the City has taken steps to protect records from disasters. There are several fire extinguishers located throughout the storage areas. The City maintains hard and electronic copies and less frequently used originals offsite from the Records Office as a precaution. DSD and Public Works will work with the Fire-Rescue Department to evaluate the need for additional fire extinguishers and conduct fire extinguisher training for personnel.

13-17: Implement improved fire protection in all areas where land survey records are stored by June 30, 2014.

See the response for Recommendation 13-16

13-18: Implement a program designed to improve customer service in the City Records and the Field Engineering Office with emphasis on providing knowledgeable, responsive customer assistance in land record survey requests by December 31, 2013.

The recommendation has been implemented.

See responses for Finding 02 which speaks to additional training for public information clerks, and Finding 04 regarding opportunities for increasing stakeholder input. Note that DSD has indicated that the Records Office is the second busiest service area at DSD and has the highest satisfaction of all service counters, as evidenced by customer service surveys.

IMPROVED ACCESS TO LAND SURVEY RECORDS AND MONUMENTS

WHY IS THIS IMPORTANT?

SUMMARY

The 2012-2013 San Diego County Grand Jury (Grand Jury) reviewed land survey policy and practice in San Diego County (County) and the City of San Diego (City). Our goal was to determine whether land survey services in the City and County are serving the public, as the law requires. The Grand Jury found that although survey monument preservation is a continuing problem, it has improved in recent years. In addition, the Grand Jury found that the County through its on line Land Survey Office's state-of-the-art Automated Survey Records System, does a better job of making survey records available to the public than does the City. The County's system permits private individuals and government employees to review land survey records on line.

In contrast, there is a lack of clarity among the City offices regarding responsibility for serving the public seeking survey records. The City does not have up-to-date electronic tools at its disposal to maintain and search survey records. Since 2007, staff retirements, consolidation and reorganization of the City Development Services Department resulted in both budget and staff reductions. Resource limitations have hindered technological modernization of records maintenance and electronic search capability. Limited resources devoted to modernizing the records systems contribute to a decentralized approach.

The Grand Jury found the public would be better served if a cooperative approach among City agencies were implemented where documents and records might be centrally stored. The existing decentralized model of information and record keeping is inefficient and more costly over the long term. Moreover, we found the existing process frustrating for public users trying to access information. We recommend the City outlay sufficient funds necessary to implement a state-of-the-art electronic searchable database for City records that would eventually reduce the cost of serving the public.

INTRODUCTION

The Grand Jury received a complaint alleging violations of the California Public Records Act, City Business and Professions Code and California Land Survey Act by the City. Specifically, the City Land Survey Division and Public Records Office allegedly:

- Refused to provide copies of important land survey documents required under the California Public Records Act.
- Violated provisions of the Business and Professions Code by failure to stamp and seal land surveying documents.
- Violated the California Land Survey Act by failure to file land surveying maps and documents.

- Violated California Land Survey Act by failure to preserve land survey monuments that are paved over or destroyed by repair and maintenance of city streets and sidewalks.
- Adopted a policy of retribution and retaliation for anyone who complains about these issues.

The Grand Jury conducted an investigation into the allegations and the general operation of the City and County land survey activities.

PROCEDURE

In order to look into the above allegations, members of the Grand Jury interviewed experts in land survey policy and practice. The Grand Jury interviewed employees of the City and County land survey, field engineering and records offices. We also interviewed private-practice licensed land surveyors working in the County and in cities within the County, many of whom are members of the San Diego Chapter of the California Professional Land Surveyors Association. In addition, we attended two industry-focused meetings hosted by City Development Services Department (DSD). Site visits were conducted to the City and the County records facilities. Archiving and record retrieval methods were examined. We ran test record searches. While at the City and the County records facilities, we spoke with public service clerks and other employees on the job. Our investigation included review of public media reports, such as television and radio news and on line public meeting minutes.

DISCUSSION

Why Should We Care about Land Surveying?

Land surveying is important for the citizens of the County. Survey monuments are the physical reference points for precise location of land divisions that secure ownership boundaries of lots, parcels, subdivisions, tracts, roads, streets, highways and rights of way. Preservation of existing survey monuments is important because these monuments serve as the basis of reference for subsequent new surveys and legal challenges to existing property lines. Records documenting the physical monuments are important because they provide information about:

- Location of boundaries
- How they were established
- How they have been modified over the years.

Public access to records documenting survey monuments is important because the law requires it. Furthermore, if prior survey information is lost or unavailable to the public, doing a boundary retracement is expensive and time consuming for the property owner and the surveyor.

What Does the Law Require?

Chapter 15, §§8700-8805 of the California Business and Professions Code includes the State of California Professional Land Survey Act (PLSA). Land survey monumentation and recordation is codified in PLSA. This law defines what is involved with surveying and provides the structure and guidelines that surveyors are required to follow when practicing their profession.

The Code of Regulation also includes provision for the State Licensing Board for Professional Land Surveyors and Engineers. The State Licensing Board is within the Department of Consumer Affairs. Land surveys and the associated survey documents must be prepared by, or under the supervision of, a licensed professional land surveyor or engineer. California first started licensing land surveyors in 1891. When a licensed surveyor or engineer, whether private or a County or a City employee, establishes survey points, boundaries or property lines, they are required under PLSA to file a record of that action with the County Surveyor.

The County Surveyor's role is also codified in PLSA. The County Surveyor is responsible for ensuring that an indexed reference system for land survey is maintained and made available to the public. The law requires that survey documents filed with the County Surveyor have the seal and signature of the licensed surveyor doing the work. The County Surveyor is responsible for land survey verification, records maintenance and survey monument preservation in the County. The law requires that the County Surveyor review sufficiency and accuracy of land survey documents filed with the County. Under the code provision, the County Surveyor must look at the filed documents and certify that they meet the minimum standards.

Field notes¹ are quasi-official documents that clarify actions and decisions made in the field. Surveyors generate field notes for internal use as a way for them to keep track of data they collect in the field. Field notes are not included in survey records officially filed with the County.

The Municipal Code for the City, Chapters 11 and 12 contains the Land Development Code. This section of the code provides additional framework for the regulation of land development in the City. It should be noted that prior to the 1980's compliance with the requirements of PLSA were not strictly enforced by the City. We understand the city began to vigorously enforce land survey policy in 1984. Prior to 1984, survey monuments may have been set without proper records filed. Some surveyors deliberately did not file records of survey in order to protect their territory and their business operations. This appears to no longer be a common practice.

The law applies equally to private sector surveyors and City or County employee surveyors. The Joint Professional Practice Committee is the public body that looks into professional malpractice or negligence within the land survey community. They

¹ **Field notes** refer to various notes recorded by surveyors during or after their observation of a specific survey activity on which they are working.

investigate complaints. The Grand Jury was assured that they eventually resolve all their cases.

Most cities within the County maintain their own land survey records office, including the City of San Diego. Land survey records generated as a result of city public works and capital improvement projects must be filed with the County when the work is complete. In addition, survey records generated by the cities are considered public record. They must be indexed and made available to the public through city resources. The County and cities within the County are NOT required by law to include field notes or other personal documents with officially filed records of land survey filed with the County Surveyor.

The County's Land Survey System

In the County organizational structure, the land survey office is under the Land Use & Environment Group (LUEG). The land survey office is in the County Operations Center (COC) located at 5555 Overland Avenue in San Diego. Their cartographic unit is responsible for maps and aerial photos. The field survey unit provides survey service for work done by county crews. If the County Department of Parks and Recreation or General Services Division wants property surveyed, County land survey crews will do it on their behalf.

The County records office maintains official survey records for all cities in the County. It is the County Surveyor's responsibility to index and make available to the public corner records², records of survey, parcel maps, subdivision maps and other related official documents filed with his office. Although it contains 18 cities of varying populations, the County is still mostly a rural county. Approximately half the County's population lives in the City of San Diego. Roughly half of the County's new development area is outside the City limits.

The Grand Jury found that the County Land Survey Office goes beyond what is required by law in order to provide access to records. The County has one location where records are archived and surveyors can come to research survey records. Copies of records are made available at a walk-in public service desk at the COC. This state-of-the-art facility is welcoming to the public. Clerks knowledgeable about the survey process and survey records are available to serve walk-in customers. In addition, they maintain the Automated Survey Records System (SRS). SRS provides online access to thousands of maps, plans, and a variety of records related to land information. Records can be searched using a standard web browser in a number of ways: by address, by record number, by quad sheet for control monuments, or geographically via a map interface.

There is about a three-month delay between when a survey record is filed at the County Surveyor's Office and when it is available on line via SRS. The hard copy of the original document is sent to the County records office. After a hard copy is returned to the County Surveyors Office, it is then scanned. Generally, they wait until they have a stack

² A property corner is a geographic point on the surface of the earth and is on a part of and controls a property line. A corner record is the officially filed document showing the location of the point.

of hard copies and then scan the bundle. Each document must be geo-referenced (defined in physical space; established by location in terms of a map projection or coordinate system) in order to be integrated into the searchable database.

At the time of our inquiry, most but not all, historical documents had been scanned but were not all available through SRS. Geo-referencing of the historical documents is in progress. The Grand Jury was assured that all the historical documents would be available on line within the next year.

The City's Land Survey System

In the City's organizational structure, two entities prepare survey documents. The Field Engineering group manages construction and capital improvement projects. Development Services Department (DSD) manages the development process and the permitting process. All ensuing records are held by the City Records Office within DSD. DSD and the City Records Office are located at the City Operations Center at 1222 First Avenue. The Field Engineering Office is located at 9485 Aero Drive.

The City Surveyor bears the ultimate responsibility for the sufficiency and accuracy of all survey work attributed to the City. City work crews do sidewalk reconstruction, road resurfacing, utilities maintenance and other improvement projects. They may set new survey monuments or reset existing survey monuments as part of this work. These survey monuments are tagged³ to the City Surveyor or City Engineer. Thus, the City generates and maintains survey records. The City Surveyor is required by law to file an official record of survey or corner record with the County when the project is completed. The physical monuments set by City crew survey work must be traceable through the City and the County records.

The City Records Office, informally known within the land survey community as the "2nd Floor", is located in the City Operations Building. Copies of City survey records are available at this location. Additional survey records are housed in the Field Engineering Office on Aero Drive. The main mission of the 2nd Floor Records Office is to maintain records related to development and permits. They provide development and permit records on property dating back to 1955. Most of the records pertaining to land survey in the City are on microfiche. Land survey records are indexed in binders or in card files.

Upper management in the City Records Office was drawn from the City's information technology (IT) group. The City has a searchable computer-based system for accessing records related to development, permits and land surveying that is not accessible outside the 2nd Floor. According to the City website, an appointment to review records information is desirable. Their database includes engineering documents, copies of approved grading plans, as-built grading and improvement plans. The existing records access system seems to be an evolutionary system that grew out of old habit. The software used by the system now in use was modified in-house and is decades old. Using

³ Tags are the symbols on survey monuments indicating the responsible charge for survey work that resulted in placing that marker. The tag is used to trace the pedigree of that specific marker through the survey records system.

Oracle as a base, the City's IT personnel adapted the system. It is not able to support recent advances in Geographic Information Systems (GIS) data display. This software is antiquated and cumbersome.

Because the professional land survey community is a small percentage of the population served by the City Records Office, many members of this community accuse upper management of not listening to or caring about the private sector surveyors who do research in City Records. We found that the clerks at the 2nd Floor public service desk are knowledgeable about development and permit records and some types of survey records. However, the clerks are not trained in surveying methods and the documents a professional surveyor may be trying to find. Land survey records make up a very small portion of City records (less than 5%). If a customer needs assistance for researching land survey records beyond the capability of the service clerk, someone from the City Surveyor's Office is called in to help that customer. One can submit an on line request for information on permits issued by the City after 1990. A response to emailed requests is made within ten working days. The web site contains the caution that records procedures and legal requirements have changed over the years; therefore, not all types of records are available through the 2nd Floor facility. The City land survey records system is difficult to use and results in extra work, costing both the private and public sectors additional money.

In addition to officially filed survey documents, the City has field notes and other quasi-legal documents that are not filed with the County and yet are useful to private sector surveyors. Most of the very old, original documents from surveys within the City are housed at the Field Engineering Office on Aero Drive. One example of old documents retained by the City is tie point⁴ surveys produced in the 1930's. These documents show locations of controlling monuments established during that period. Over time, many of the original monuments have been replaced or updated by the City engineer. Survey records showing monument reset and update must be filed with the County. Even so, it is occasionally useful to go back to the original documents for information. Some records (originals and microfiche copies) are not submitted to the County because they are not official records of survey or corner records. However, these quasi-legal documents are useful to working surveyors, especially when litigation is involved.

To the casual observer the physical storage of paper, Mylar and velum maps, and microfiche files at both the Aero Drive and 2nd Floor offices seemed chaotic. The filing system depends on the memory of the clerks and seems to rely on 1950's technology and library practice.

The Grand Jury found the apparent lack of fire protection and fire safety systems surprising. In document storage areas that are congested and physically confined, there

⁴ A tie point is a point on the ground that occurs in two or more maps and can be used to co-register the maps. A tie point sheet may contain references (ties) to physical monuments and records of measurements to controlling monuments.

was an apparent disregard for the safety of personnel, as well as preservation of valuable documents.

Recent restructuring in DSD, with input from Field Engineering, elevated the position of City Land Surveyor to an unclassified (non civil service) management position. The City Land Surveyor advises the Directors and Deputy Directors about current issues, challenges, and potential process improvements. The Grand Jury is optimistic that City survey policy and practice will improve under the guidance of new leadership. In the past there was a lack of understanding by administrators at the management level of why land surveying is important. The Director of Development Services and the Director of Public Works now recognize the need to upgrade and improve how the city goes about land surveying. They see this as a long-term issue that needs to be addressed. DSD is beginning to work through the issues to find feasible solutions. They are pursuing a strategy for improving coordination between the City and private industry practitioners. We expect that regular conversations about issues are likely to dispel misunderstandings.

Public Records Acts Requests

The Grand Jury found that both the City and the County take Public Records Acts (PRAs) very seriously. They understand the law and comply with the law to the best of their ability. Both the City and the County have designated skilled personnel who respond to PRAs.

When asked if some people misuse PRA requests or use PRA requests frivolously, a common response from interviewed staff and private-sector surveyors was “Yes.” Some people may use PRA for fishing for unknown but potentially useful information. Some people may also use PRA to have city or county employees do research that rightfully should be done by the requestor. A PRA request may be a device for avoiding the copy fees charged by the Records Office.

A common difficulty with PRAs is vaguely articulated requests. Sometimes the request is deliberately imprecise and all inclusive. Sometimes the requester does not have sufficient professional knowledge to identify appropriate key words, phrases or labels. If a requester is unsure how to phrase a research request, the responding clerk should be able to help narrow a search of records.

Access to Obscure Survey Documents

There is no official repository for personal documents related to survey work generated by private-practice surveyors. However, these documents have historical value and provide supporting information about formally filed survey records. The local land surveyor community is worried about professional legacy. Private survey field notes could be lost after a professional retires or moves to another position. Members of the San Diego Chapter of the California Land Surveyors Association, as a professional courtesy, maintain a list of field notes archived by private land survey and engineering companies. Field notes generated by the City land surveyors are archived at the Field Engineering Office on Aero Drive. Some field notes are available at the 2nd Floor of the City Operations Building. The County Surveyor has copies of some but not all, field

notes from County surveyors, City surveyors and private professional surveyors. Some field notes archived at the County have been made available on the SRS on line system.

Historical documents generated before PLSA are also valuable to the professional survey community. Many historical documents are available through the County SRS on line system. The majority of the original historical documents created by the City are housed at the Aero Drive Field Engineering Office. Very old field books and maps are delicate. They require expert handling. So the original documents are not generally made available to the public. Copies of the originals are available to the public through the 2nd Floor Records Office.

There seems to be some concern among private-sector professional surveyors that some older tie point sheets had been destroyed or are missing. A tie point sheet may contain references (ties) to physical monuments and records of measurements to certain monuments that may have been destroyed by subsequent construction activities of which there is no other record. Original tie point sheets are one of a kind record. They may be the only surviving copies or may be the best quality copies of originals. These documents are not available to the public but the City is willing to make copies upon request at some cost to the requester. The Grand Jury found a significant problem in that it was unclear whether specific tie point sheets were being held at the Field Engineering Office on Aero Drive or at the 2nd Floor. The Grand Jury was assured that the missing tie point sheets have been located and will be properly entered into the searchable data base.

It should be noted that some survey records are incomplete because of swings in the construction industry. A developer may begin a project but be unable to complete the project. The record of survey for a delayed project may not be filed until the project is completed. If the project is not completed, the record of survey may never be filed. Subsequent survey work may find monuments related to such "No Record" work. Most of the "No Record" monuments in the City and the County are from the 1960's and 1970's. These surveys were established before the City and the County began to diligently enforce the requirements of PLSA.

Survey Monument Preservation

When construction or maintenance projects are likely to disturb existing survey monuments, whether the work is done by City or County crews or by a private contractor, they are required to file pre- and post-project survey records. Enforcement of State of California monument preservation laws has been inconsistent in the past. Monument preservation is a complex problem. Undergrounding of utilities disrupts street monuments; installation of pedestrian ramps disrupts corner monuments. Road repair and maintenance disrupts or covers over street centerline and intersection monuments (known as M10 monuments). Enforcement of existing law requiring that disturbance of survey monuments be properly documented with the County Surveyor was not diligently pursued in the past.

The County now has language in building permits that include excavation and encroachment permits inside County rights-of-way that ensure compliance with the law.

The project design engineer is responsible for doing the research to locate existing survey monuments. The contractor is responsible for preserving existing monuments or hiring a surveyor if he finds monuments to preserve. The Grand Jury found that the County is doing their due diligence to protect survey monuments by educating the public and contractors.

The County Monument Preservation Fund was established to recover lost or damaged survey monuments. The money for this fund is derived from fees mostly collected from rural areas relating to deeds with “metes and bounds” description of property. Inner city monuments are described in terms of “lots and blocks”. The County Monument Protection Fund is meant for rural monuments related to metes and bounds description surveys where monumentation is less abundant. Lots and blocks survey monumentation is dense and well documented.

The County does not have authority to enforce compliance with land survey requirements outside of its rights-of-way. Additionally, the County does not have authority inside the cities’ jurisdiction to enforce compliance with PLSA. Actual survey work done within the City is predominantly done by private engineering firms. Much of the contracted work is related to City public works and capital improvement projects. Other survey work is related to private development. In the City, survey monuments used to be under the control of Street Division. Now the Field Engineering Division is the asset manager of the street survey monuments. The Street Division was not very good about bringing street M10 monuments up to the surface when City streets were resurfaced. Records of survey were not consistently filed.

Proper survey record filing is not the sole responsibility of the City staff. The contractor is required, by language in the contract, to comply with the law. Language in the contract requires the project manager to reference existing monuments prior to construction and file appropriate records with the County. They are required by contract to reference and file again when the project is complete. The City is working on improving communication with contractors regarding enforcement of PLSA requirements. The City is also working on greater inspection and post-project follow-up to insure compliance with contracted requirements for survey monument preservation.

The City typically has many ongoing street resurfacing projects. There was some concern regarding loss or cover-over of M10 monuments. In fact, some monuments have been covered over by many layers of asphalt and/or slurry from prior street repair and maintenance projects. Leaders in the Development Services Department acknowledge that it is the responsibility of the City to recover and raise to the surface the lids of these buried M10 monuments. However, so many monuments were covered over by prior street maintenance projects that it will take years to fully remedy the situation. For now, the City will deal with buried monuments on a case-by-case basis. They are not actively seeking out buried monuments and bringing them to surface level. If buried monuments or lost monuments are reported, they will be investigated and either recovered and raised or replaced. The cost of survey monument recovery or replacement is a factor in the timing of follow-up efforts to reported lost or obscured survey monuments. If an M10

monument is written into a given contract, the contractor doing the work will be required to raise that monument lid to the surface.

Summary of the Access to City Records Problem

The bulk of the customers seeking land survey information are professional land surveyors. They know the sorts of documents they are seeking. Finding documents at the 2nd Floor is not a self-serve effort. An applicant must identify specific documents in such a manner that a clerk is able to find the documents in question. Many older documents are not conveniently labeled. An undertrained clerk may have difficulty locating poorly labeled or filed documents. Thus, some documents are incorrectly determined by a clerk to be unavailable. Some documents, especially the quasi-legal documents such as field notes or tie point sheets, are not always available at the 2nd Floor. Documents held at Aero Drive are not available to the public, but are available to City surveyors and engineers.

The Grand Jury never received a satisfactory answer as to why the City retains two separate depositories of survey records. The Grand Jury deduced that policy change related to staff reduction and budget cuts placed DSD in charge of all City records. DSD is responsible for distributing records. However, some records are retained at the Field Engineering Office on Aero Drive.

The Grand Jury found a lot of finger pointing among City groups, each blaming the other for gaps in the available records and that some records are available in one place but not the other. Bureaucratic change has been slow. Pockets of resistance to change remain in both the City offices and the private sector users of city records. The Grand Jury found that there may still be a few City employees who are reluctant to serve some members of the private-sector professional community. These individuals are remnants of the prior culture of decentralization and office independence. Current leadership has assured us that they are committed to changing the culture to one of commitment to serving the public.

What can the City do to improve land survey services to the public?

The Grand Jury strongly suggests that the City establish a long-term goal of making all public records related to development, permits and land surveying available on line. In today's technology-driven world, walking in to the 2nd Floor is certainly not as convenient as logging in on line and helping yourself to the documents you need. It is true that the County already covers the City of San Diego and all other cities for parcel maps and final maps through SRS. Therefore, a City-operated comprehensive on line records system might seem redundant. The Grand Jury disagrees. Many documents necessary to land surveyors and other members of the public are not codified under PLSA and are not filed with the County. In addition, there is a time gap between when City projects are initiated and final maps are filed with the County Surveyor. Even if the survey is not yet formally filed with the County, decisions based on the surveys must be made. Surveyors in private practice would benefit from access to land survey information as early in the process as possible.

The Grand Jury understands that DSD is an enterprise-fund department. Thus, the cost of operation of the Records Office is borne by the service users. The cost of converting the existing antiquated system to an on line system is likely to be high, beyond what could reasonably be charged to users. However, the Grand Jury believes that one-stop on line shopping for all development, permit and land survey City public record documents is likely to result in cost saving to the City over the long term. City workers would be more efficient because the workers would spend less of their working time seeking paper copies of documents they need to do their job. Fewer clerks would be needed to serve walk-in customers. Private citizens and professionals would be less frustrated with the Records Office because documents could be accessed on line at any time, including weekends and holidays. These factors justify the City funding the up-front cost of developing an on line system for records related to development, permits and land survey documents.

A comprehensive records system should be fully geo-referenced. Geo-referencing is used to connect a document, such as a tie point sheet or a corner record into a larger geographic reference system. That would allow that document to be linked to a different document from a different source. Geo-referencing is essential to data modeling in Geographic Information Systems (GIS). GIS allows data from different sources to be combined, and then used in one large application. Different data sets can be linked by virtue of the fact that they are related to the same geographic location. Such a comprehensive system would eventually benefit the entire City records system and therefore the citizens of San Diego.

Unfortunately, professional surveyors cannot yet submit documents to the City or County on line because the Board of Registration mandates that these documents must be submitted on card stock. The County Surveyor must retain the document with the official seal and signature that appears on card stock. The only way to allow an electronic system from submission to final recording would be to change the State law regarding the seal and signature aspect of the process. For now, newly submitted documents must be scanned prior to becoming available for an on line system. The City could charge a nominal fee, similar to that of the County, to help defray the cost of scanning documents. The Grand Jury recognizes that a nominal fee would not cover the entire cost of doing business, but the fee would prevent frivolous use of the system while allowing professionals to do their job in an equitable manner.

FACTS AND FINDINGS

Fact: The County is responsible for retaining and indexing survey documents and making them available to the public.

Fact: The County offers on line access to survey documents through the Automated Survey Records System.

Finding 01: The County appears to perform a good job of serving the needs of the land surveying community.

Fact: The City generates survey documents for projects within the City needed by private practice professional surveyors and the public.

Fact: Locating physical records through the City Records Office is time consuming and frustrating to professional surveyors.

Fact: The City currently utilizes an antiquated records retrieval system.

Fact: Surveyors use specialized jargon that may not be familiar to a clerk trained in general record retrieval.

Fact: In some cases, documents known to exist have been misplaced or lost. Moreover, documents known to exist were reported as unavailable because an undertrained clerk did not recognize the identifiers cited in the request.

Fact: Current policy for serving the public is that a request for documents starts at the 2nd Floor of the City Operations Building. If documents are not found at the 2nd Floor, an appointment can be made to research documents at the Field Engineering Office on Aero Drive.

Finding 02: Many of the allegations and accusations about access to survey records were aimed at the City Records Office known as the 2nd Floor.

Finding 03: Physical storage of maps and microfiche files at both Aero Drive and the 2nd Floor is chaotic to the casual observer. The filing system tends to depend on the memory of the clerks and relies on 1950's technology and library practice.

Finding 04: Because the professional land survey community is a small percentage of the population served by the City Records Office, many members of this community accuse upper management of not listening to or caring about the private sector surveyors who do research in City Records.

Finding 05: The City land survey records system is difficult to use and results in extra work, costing both the private and public sectors additional money.

Fact: City storage areas of originals and copies of maps and other documents on paper, Mylar and velum lacked visible fire protection systems.

Finding 06: This apparent lack of fire protection and personnel fire safety is disturbing.

Fact: Tie point sheets were created prior to implementation of the California Professional Land Surveyors Act. These are considered historical documents. Originals are not available to the public. Copies will be made upon request for a fee.

Fact: Field notes are not included in formal survey records.

Fact: Some private sector surveyors want easier access to tie point sheets and field notes.

Fact: DSD recently elevated the City Land Surveyor to an unclassified management (non-civil service) position. The City Land Surveyor advises the Directors and Deputy Directors about current issues, challenges, and potential process improvements.

Fact: The Director of Development Services and the Director of Public Works seem to recognize the need to upgrade and improve how the City goes about land surveying.

Fact: City Records is overseen by personnel with IT background.

Fact: The City Records Office and Field Engineering Office do take Public Records Act Requests seriously. They understand the law and comply with the law to the best of their ability.

Finding 07: There appears to be no systemic problem with private surveyors seeking and obtaining copies of records they want. In the past there may have been failures of communication. There may have been misunderstandings about what the City can and should provide to the public to private surveyors.

Finding 08: Recent changes in personnel may help alleviate lack of communication between the City and industry workers. Cooperation is likely to improve. Regular conversations about issues are likely to dispel misunderstandings.

Finding 09: The current City records access system is antiquated and cumbersome. The City needs to make changes to simplify the records acquisition process.

Finding 10: It may be inappropriate to place IT personnel in charge of records. Though IT is an important component of records keeping, an expert in IT may not have the expertise to implement a user-friendly records access system.

Fact: Survey monuments belong to the public.

Fact: On-going City development and capital improvement projects disrupt existing survey monuments.

Finding 11: The City has a responsibility to make sure survey monuments are being preserved properly. The City has a responsibility in the plan-check and permitting process and in administering private contracts for public works to be sure existing monuments are accounted for and new monuments are placed and properly recorded when needed.

Finding 12: The City Records Office should make available on line access to all of the documents it manages related to development, permits and land surveying. City public documents should be available on line in a searchable database.

RECOMMENDATIONS

The 2012-2013 San Diego County Grand Jury recommends the Mayor of San Diego and the San Diego City Council:

- 13-13:** Assign a specific individual to be responsible for identifying and implementing what type of electronic records system would be suitable for the needs of the City and serve the public by December 31, 2013.
- 13-14:** Develop an action plan to identify suitable hardware and software to support a state-of-the-art digital geo-referenced GIS records system for city public documents related to development, permits and land surveying by June 30, 2014.
- 13-15:** Starting in the next budget cycle, and continuing over the next five budget cycles, allocate adequate funds to procure and implement a state-of-the-art digital, geo-referenced GIS records system for city public documents.
- 13-16:** Develop an action plan to improve fire protection and personnel fire safety in areas where land survey records are stored by December 31, 2013.
- 13-17:** Implement improved fire protection in all areas where land survey records are stored by June 30, 2014.
- 13-18:** Implement a program designed to improve customer service in the City Records and the Field Engineering Office with emphasis on providing knowledgeable, responsive customer assistance in land record survey requests by December 31, 2013.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
- (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the

finding that is disputed and shall include an explanation of the reasons therefor.

- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
- (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Date</u>
Mayor, City of San Diego	13-13 through 13-18	7/30/13
City Council, City of San Diego	13-13 through 13-18	7/30/13