

Amy Ow

From: Dave Michaels <dm94402@gmail.com>
Sent: Tuesday, March 22, 2022 10:55 AM
To: Dave Pine; Steve Monowitz; Camille Leung; Amy Ow
Subject: Highlands Public Records Problems

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Dear Supervisor Pine,

What is your availability to discuss resolutions to the problems with the public record, as described in my October 2021 email below?

I received an email from staff in November stating there would be a staff meeting to fix the issues, but have heard nothing since. All of the accessibility problems described below are still present in all past records, and have also been actively perpetuated in each upload since October. Only the error message from the June-August messages were corrected (in January - six months late) but the rest of the significant ongoing problems remain.

I look forward to collaborating on a solution.

Very truly yours,
Dave

----- Forwarded message -----

From: Dave Michaels <dm94402@gmail.com>
Date: Thu, Oct 28, 2021 at 12:47 PM
Subject: Request for County Planning staff: Highlands record unviewable (urgent)
To: Dave Pine <dpine@smcgov.org>, Steve Monowitz <smonowitz@smcgov.org>, cleung <cleung@smcgov.org>, Amy Ow <aow@smcgov.org>

Dear Staff and Supervisor Pine:

(community and interested parties BCC'd)

The Highlands project record from June to present <https://planning.smcgov.org/highland-estates-subdivision-records> is not readable or viewable as-is to many if not most of the public. The format of upload has apparently changed, raising substantial accessibility issues as well as privacy problems. (This is in addition to the existing ongoing problems, including late production.)

URGENT REQUEST:

Please re-upload June through September documents ASAP in a regular, accessible, readable PDF format (both web-viewable and downloadable) and with a multiple-PDF batch-viewing option (vs solely one doc at a

time). Please consider the urgency to do so in the next couple of business days. Please pause issuing decisions or approvals until this is done and the public has had a reasonable amount of time to catch up with the record.

Please upload October's record next week, the first week of November. Finally, looking forward, kindly update the record in a timely weekly or bi-weekly way, and communicate more clearly the processes for both public and staff to follow regarding requests, production, responses and denials.

Supervisor Pine, could we schedule a meeting with you in November to collaborate on a project record solution that works for everyone, after the urgent backlog through October is rectified?

The following provides more detail regarding the significant problems that have arisen.

NEW PROJECT-RECORD PROBLEMS (SINCE JUNE):

- Grossly late production of documents -- all of July, August and September uploaded only last week (the third week of October) to project record at <https://planning.smcgov.org/highland-estates-subdivision-records>
- The majority of documents produced for June through September, when clicked on, may not be viewed in a browser window and get an error message (see attached error message and links at bottom of email) instead of being viewable by the browser's pdf viewer
- Likewise, the majority of the documents produced for June through September, when downloaded, may not be viewed in device-based PDF viewer unless the user has, or is willing to install, specific software, (again, please see attached error message and links at bottom of email)
- Staff's format of upload appears to have changed effective June from regular PDF to Adobe-specific PDF "Portfolios", raising both accessibility and privacy concerns. This change prevents users from either viewing the record online or viewing on a device on the pdf viewer of the user's choice.
- Staff's format change to Adobe-specific "portfolios" requires end users to choose between not viewing the public record or the installation of an advanced software application. Many members of the public will not have the knowledge, time, hardware or operating system to do so, may not be allowed to download software onto their work computer, or may not be inclined to do so if they already have a pdf viewer that works everywhere else.
- Privacy, accessibility, and taxpayer dollars at work: this format switch (to Adobe-specific Portfolios) is typically done either to create graphic presentations (which are not relevant here) or to allow the author to track and monitor view counts and other end-user data via embedded analytics. This raises a potential concern. These analytics could be useful in managing teams of employees or gauging customer interest in a product, but are not appropriate in matters of public transparency and accessibility.
- This confounding strategy has rendered the record since June unviewable and has greatly exacerbated the prior troubling issues with the record

PRIOR AND ONGOING PROJECT RECORD PROBLEMS:

- Unclear procedures for request and production
- Unclear procedure for re-requests: several of my repeated requests for specific documents missing from the project record have gone unanswered. Not denied, but altogether unresponded-to. In other cases, incorrect or unresponsive documents were produced and my follow-ups to correct it were ignored.
- Arbitrary upload and production timelines and no notification after upload, forcing the public to manually check, often for months

- No dates of upload/production listed (only the title or date given to the document by staff)
- "Data dump" style of production (a lot of documents at once after a long wait)
- No way to view or download a batch at once, only a single document may be viewed or downloaded one-at-a-time (this prohibits all but the most patient and tech savvy from clicking back and forth hundreds of times to view the last four months of the record alone. This is compounded over many months of the record.
- No search feature. The only way to search is to download all records and then do a device-based search.

All of the above appears to contravene County's website accessibility policy, ADA and section 508: <https://www.smcgov.org/accessibility>. It also appears to contravene the County's web privacy policy <https://www.smcgov.org/privacy-policy> which outlines the type of analytics that may be used by the County on browsers during a web site visit, but it appears not to encompass non-browser analytics (such as the kind embedded in PDFs that are downloaded onto end-users' devices)

THE PROJECT RECORD IDEALLY SHOULD:

1. have clear, linear and logical procedures for requests, responses, timelines, production, denials and appeals - whether for a time range or specific documents (or for specific information in layperson's terms that regular citizens can't extract from a technical document)
2. be updated/produced on a scheduled day OR have a real-time notification opt-in so users aren't required to keep checking back
3. be updated more frequently (weekly or bi-weekly)
4. have a check-and-balance in place by a party other than staff
5. be accessible and transparent, including ADA and section 508 compliant
6. be viewable online
7. be viewable after downloading in a common PDF reader, not only through a specific advanced software program chosen by staff that is not readily accessible
8. not employ the use of tracking, analytics or page-view counts, including in a manner different from the San Mateo County website privacy policy.
9. not favor or convenience the builder or staff, or give the appearance of doing so
10. not delay or impede the public's right to know, or give the appearance of doing so
11. show the upload or production date
12. be searchable
13. be available in batches and not only individual documents. (If the county wishes to continue to upload the documents individually that is fine but there should also be a choice for one larger viewable and downloadable pdf batch alongside it).
14. be chronological (thank you to staff for starting to maintain the record chronologically, as previously requested)
15. keep attachments with emails (thank you to Staff for starting to upload attachments and emails together, as previously requested. Thankfully this does not require "Adobe-specific PDF Portfolios" to accomplish.)
16. comply with CPRA and/or the County's general methods for production

The above straightforward measures, once in place, would likely take less time to maintain than the current methods. For example, to upload the current week's worth of documents on, say, a Friday afternoon, in a single scrollable batch would likely take only a few minutes and would be up-to-date, in contrast to the current methods which only create delays and hardships for the public.

From the viewable titles of the (unviewable) June through September documents, there has been significant activity behind the scenes in the past five months - rainy season grading discussion, geo tech

investigation, etc. This is being withheld from most if not all of the public. Based on the above, your constituents have been systematically prevented from learning about time-sensitive developments in the project and have been directly adversely impacted by the same.

For reference here are the links to June through September

<https://planning.smcgov.org/documents/highland-estates-subdivision-administrative-records-september-1-30-2021>

<https://planning.smcgov.org/documents/highland-estates-subdivision-administrative-records-august-1-30-2021>

<https://planning.smcgov.org/documents/highland-estates-subdivision-administrative-records-july-1-31-2021>

<https://planning.smcgov.org/documents/highland-estates-subdivision-administrative-records-june-1-30-2021>

And here is one example (out of hundreds of pages of documents) of a link that did not allow web-viewing and requires the downloading of a specific program or upgrade, if the user did not already have it:

<https://planning.smcgov.org/sites/planning.smcgov.org/files/documents/files/2021%2006%2024%20%20Highland%20Estates%20-%20Inspection%20Report%206%2024%202021.pdf>

The current system is not working and gives the impression of favoring Staff and builders at the expense of public information and trust. The next phase will go more smoothly if there's a spirit of collaboration rather than struggle for the facts. I for one would be willing to follow a predictable procedure that had clear parameters, and even take up a neighborhood collection to pay fees, if it meant we could get the whole record in a timely, predictable and complete way. The county seems to be implying that it's doing the public a service by not charging the per-page fees of a PRA for the Highlands project but in reality the project record is less accessible, and the County is using more tax dollars to reformat these and painstakingly upload them one by one.

Thank you for your time. I look forward to an accessible project record solution for this extremely time-sensitive matter and a collaboration that works for everyone.

Very truly yours,
Dave Michaels