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**FILED**

AUG 30 2010

Clerk of the Napa Superior Court  
By: *C. Brennan*  
Deputy

July 26, 2010

The Honorable Stephen T. Kroyer  
Presiding Judge  
Superior Court of the State of California  
County of Napa  
825 Brown Street  
Napa CA 94550

Received  
Napa Superior Court

AUG 30 2010

Court Executive Office

Dear Judge Kroyer:

On May 21, 2010 the Napa County Transportation and Planning Agency (NCTPA) received a Grand Jury Report which examined the operations of the Agency. The report contained findings and recommendations. Statute requires the NCTPA Board respond to the Grand Jury's presiding Judge within 90 days.

At their July 21, 2010 meeting, the Napa County Transportation and Planning Agency Board of Directors finalized and approved its responses to the Napa County Grand Jury 2009-2010 Final Report on Napa County Transportation and Planning Agency. Enclosed please find the approved responses.

The NCTPA appreciates the time, effort, and energy the Grand Jury expended in reviewing the agency and its assistance in providing some direction on how improvements can be made.

Sincerely,

Paul W. Price  
Executive Director

Enclosure

Received

JUL 27 2010

Napa Superior Court

# THE NAPA COUNTY TRANSPORTATION AND PLANNING AGENCY (NCTPA)

The Grand Jury's report was delivered on May 17, 2010. Below are our responses to the Grand Jury's findings.

The 2009-2010 Grand Jury finds that:

## **Finding 1:**

The original intent of the NCTPA was to provide transportation services for Napa County residents.

**Response – NCTPA:** Staff in spirit agrees with this Finding but would like to clarify to the Napa County residents the agency's authority under its Joint Power Agreement.

The agency was created by its Member Jurisdictions to provide coordinated transportation planning and transportation services within the County of Napa. Specifically:

1. **General.** NCTPA is to serve as the countywide transportation planning body for the incorporated and unincorporated areas within Napa County, and **as an advisory body** for countywide development, environmental issues, arts and cultural issues. It is to do so in a coordinated and more simplified way countywide:
  - A. Transportation policy development and planning activities including:
    - i. those relating to transit on both a short-term and long-term basis and within an intermodal policy framework;
    - ii. improving transit services;
    - iii. providing coordinated and more competitive input to the region's transportation planning and funding programs;
    - iv. and performing such other transportation related duties and responsibilities as the Member Jurisdictions may delegate to NCTPA through its Joint Powers Agreement.
  - B. Advisory deliberations on land-use, demographics, economic development, community development, environmental issues, arts and cultural issues whose results are nonbinding on any Member Jurisdiction.

2. **Abandoned Vehicle Abatement Authority.** NCTPA is to serve as the service authority for the abatement of abandoned vehicles (AVAA) for Napa County and the Member Jurisdictions.
3. **Preparation of County Transportation Plan.** NCTPA is to prepare and submit to Metropolitan Transportation Commission (MTC) a county transportation plan for the incorporated and unincorporated territory of Napa County which shall include consideration of the planning factors included in Section 134 of the federal Intermodal Surface Transportation Efficiency Act of 1991.

**Finding 2:**

Staffing and funding was increased to provide non-transportation services

***Response – NCTPA:*** Staff does not concur with this Finding as stated and written in the Grand Jury Report. Specifically; (page 9 Section vi) Additional Activities “Mission Creep”; which lists the NCTPA comprehensive planning activities proposed to be undertaken during FY 2009-2010.

Each year, NCTPA develops an Overall Work Program (OWP). Prior to FY 2009-2010, the agency’s OWP was simply a Table of Contents which listed the program categories and tasks that the agency was to undertake. This current version describes the proposed transportation planning activities for the upcoming fiscal year. The OWP also includes those transportation planning activities and studies required by federal and state law. These related planning studies address the overall social, economic and environmental effects of transportation decisions in the region. The OWP is divided into fourteen (14) program categories and is further subdivided into these sixty-six more specific work elements and tasks.

The OWP serves four (4) important objectives:

1. It satisfies federal, state, and local requirements for a comprehensive work program that documents all proposed work tasks, products, and financing for the upcoming fiscal year.
2. It serves as a reference for citizens, agencies, and elected officials throughout the region in understanding NCTPA’s objectives and how these will be achieved through comprehensive, continuous, and cooperative planning process.
3. It serves as a management tool for NCTPA's planning program. The division of this program into work elements with scheduled tasks and specific work products facilitates management and Board review throughout the year to ensure that the planned activities are accomplished on schedule and within budget.

4. It serves as documentation to support the local funding and various federal and state grants that finance the planning and programming activities.

**Finding 3:**

The NCTPA has become the de-facto forward planning agency for Napa County and its municipalities.

**Response – NCTPA:** Staff neither agrees nor disagrees with the above Finding as written. By definition, Forward Planning demonstrates the ability to develop a realistic strategic plan that reflects the priorities of NCTPA and the needs of the area of responsibility. As described above, NCTPA was created to provide coordinated transportation planning and transportation services within the County of Napa and to develop a coherent strategy for the area of responsibility which ensures that efforts are not duplicated and that all activities are focused on long term durable solutions; contributes to policy development by proactively putting forward ideas, suggestions, and recommendations based on an understanding and knowledge of the area of responsibility.

**Finding 4:**

Fare box collections account for approximately 15 percent of the 2009-2010 VINE Operating Cost of \$4,736,713.

**Response – NCTPA:** The Executive Director concurs with this Finding as written. NCTPA has undertaken critical review and assessment of its current transit services and operations as well as its fleet composition to seek out opportunities to get the most “bang for our buck” and to truly meet the needs of its Napa County residents. NCTPA also recognizes that having a good Marketing Plan and a good community Transit Services Plan are key in getting the word out regarding its routes and schedules to not only its residents but also its visitors.

**Finding 5:**

The current NCTPA budget is difficult to understand due to combining transportation and non-transportation revenue and expenses.

**Response – NCTPA:** The Executive Director does not agree with this Finding as written. Combining transportation and non-transportation revenue and expenses is not the primary reason that makes the current NCTPA budget difficult to understand. Similar to the reason stated above, NCTPA after re-evaluating its accounting system at the beginning of FY 2009-2010 made a conscience decision to shift to an accrual based as opposed to cash based system. The main problem with a cash based system is that it can be difficult to get an accurate picture of the agency's performance. There is usually a gap between

making a sale and collecting the money, and between using a resource and then paying for it, there can be a lot of overlap in cash flow from one period to the next.

A much better method, and one that is generally required of agency's that have to publicly report their financial statements, is the accrual basis. This method follows the revenue recognition principle, which dictates that all revenue is recorded when it is earned, regardless of when it is actually collected. In addition, all expenses are recorded when they are recognized and not when the cash is actually paid.

Through the accrual accounting method, NCTPA can get a better picture of how the agency has performed during a certain period of time, without the latency of the money actually changing hands to skew the numbers. The advantage is that NCTPA has a much better way to account for the agency's financial performance. This couple with the OWP will allow both management and its Board of Directors to make a more informed decision(s).

**Finding 6:**

VINE ridership is trending downward increasing the cost per person trip

**Response – NCTPA:** Staff concurs with this Finding as written. However, as noted in the above response to Finding 4, NCTPA is awaiting completion of several key studies and Marketing Plan to help restructure its transit system and services. Several modifications to existing services and operations as well as new services and promotions implemented early in 2010 are beginning to show positive trends. Additionally, the Board has taken steps to eliminate unproductive services over the past year.

**Finding 7:**

Passenger subsidies have doubled in the past eight years.

**Response – NCTPA:** Staff concurs with this Finding as written. Subsidies help to keep fares affordable while reducing roadway congestion. There is no mass transit system in North America that operates without public support (i.e. subsidy). As noted above, NCTPA is involved with a critical review of its services to improve its effectiveness.

**Finding 8:**

New state of the art vehicles have been purchased and more ordered while ridership is decreasing.

**Response – NCTPA:** Staff does not agree with this Finding as written. The older buses get, the more money it costs to maintain them which is partly due to wear-and-tear, but also because the technology used in vehicles is becoming obsolete. Often an aging diverse fleet means that there is a greater likelihood that your system is out of production; the technology is no longer supported; and parts are becoming scarce — all of which makes maintenance and reliability more difficult and costly. NCTPA is consciously standardizing its fleet to achieve and maintain an optimal and efficient fleet that leverages its scarce resources through economies of scale.

**Finding 9:**

Many activities of the NCTPA "Overall Work Program F/Y 2009-2010" are for non-transportation related activities.

**Response – Executive Director NCTPA:** The Executive Director does not concur with this Finding as written. As previously explained, of the sixty-six items shown on pages 10 and 11 there are approximately seven that are non-transportation related activities. The OWP is structured to look at where the agency has been over the past twelve months (activities that are either nearing completion or are continuing) and to look ahead to where the agency needs to be over the next twelve months. Each work element and task is reviewed and programmed by management to ensure compliance with all applicable federal, state, and local requirements.

**Finding 10:**

The BOD of the NCTPA has failed to follow up on certain audit findings and recommendations.

**Response – NCTPA:** Staff does not agree with this Finding as written. NCTPA and its Board of Directors understand the contributions and major importance an effective internal audit system has on an organization especially since it leads to improved accountability, ethical and professional practices, effective risk management, improved quality of output and supports decision making and performance tracking. It is worth noting that NCTPA has been in a consistent audit mode since October of 2007. Many of the above responses touch on the various efforts and assessments underway that are identified as deficiencies in the audit(s). A matrix was created which tracks and monitors the agency's progress as it considers how best to manage and minimize risk of the agency.

Below are the series of audits and staff changes the agency has undergone.

- a) Internal Audit performed by the County of Napa Auditor-Controller– (2006 to 2007)



- b) Six-month Follow-up to Internal Audit by the County of Napa Auditor-Controller (January/February 2009)
- c) 2008 Triennial Review by the Federal Transit Administration (FTA) (August 2008 for the prior three years)
- d) 2008 Transportation Development Act by the MTC (August 2008 through March 2009 for the prior three years)
- e) 2008 Transportation for Clean Air (TFCA) by the Bay Area Air Quality Management District (BAAQMD) (October 2008 through April 2009 for the prior three years)
- f) FY 2007-2008 External Audit (October 2008 through March 2009)
- g) FY 2008-2009 External Audit (October 2009 through December 2010)

Staff changes:

- June 2006            Transportation Program Manager – Transit (separated)
- August 2006        Executive Director (separated)
- December 2006     Executive Director (hired)
- March 2007         Transportation Program Manager – Transit (hired – Transportation Program Manager – Fiscal promoted through competitive process)
- June 2007           Transportation Program Manager - Fiscal (hired)
- December 2007     Deputy Executive Director (separated)
- March 2008         Deputy Executive Director (hired – through competitive process position under filled as Transportation Program Manager – Highways, Streets, & Road until June 2008)
- July 2008           NCTPA becomes an Independent Agency (6 of 7 County of Napa Personnel transferred plus 2 part-time temporary positions (Administrative Assistant remained)
- September 2008     Executive Director (separated)
- September 2008     Transportation Program Manager – Transit (separated)
- September 2008     Interim Executive Director (former Executive Director hired until new Executive Director is selected and hired)
- January 2009        Executive Director (hired)
- May 2009            Manager of Public Transit (hired – Transportation Senior Planner promoted through competitive process)
- June 2009            Manager of Finance (hired)
- July 2009            Transportation Program Manager – Fiscal (separated)
- July 2009            Manager of Planning and Programming (hired)
- February 2010       Re-alignment of staff (Incorporating recommendations made by Internal Audit)

**Finding 11:**

The BOD approves issues with potential policy and financial impact by consent agenda without discussion.

**Response – NCTPA:** Staff does not concur with this Finding as written. Starting in 2009 management has made a conscience effort on matters with potential policy and financial impact to introduce them over the course of several Board meetings. This helps to ensure that adequate guidance and direction is given by its BOD to staff before any final action is taken.

**Finding 12:**

The Agricultural Workers Vanpool Program started with a pilot program under a State grant and the program needs to be self-sufficient by June 2011.

**Response – NCTPA:** Staff concurs with this Finding as written.

**Finding 13:**

The Single Audit Report 2008-2009 indicates there were eight areas of deficiency, some of which had been brought to the attention of the BOD in previous audits.

**Response – NCTPA:** Staff concurs with this Finding as written. As previously stated in the above response to Finding 10, NCTPA continues its efforts toward addressing all areas of deficiencies cited in the various audits completed to date. In addition, NCTPA has researched prior actions taken by the BOD to ensure that the appropriate action is taken to ensure compliance with all Federal, State, and Local requirements. On July 21, 2010, NCTPA plans to present its action plan and schedule for the delivery of its suite of policies and procedures for each of its respective business processes. The goal is to have them in place by the end of the fiscal year 2010/2011. In addition, NCTPA staff will ask that the Board rescind all previously approved Policies and Procedures and replace them with a more up-to-date version incorporating realigned roles and responsibilities. These will be consolidated into one user manual that will be available to all staff members via our website. Revisions to the users' manual will be made as needed to ensure the manual is current at all times. NCTPA staff will be advised of all revisions and will be required to sign an acknowledgement form.

**Finding 14:**

The NCTPA was able to secure ARRA funds for the repair/maintenance of local and county roadways. Continuation of funding for future repair and maintenance programs throughout the County is unclear.

**Response – NCTPA:** Staff concurs with this Finding as written.



The 2009-2010 Grand Jury recommends that the NCTPA BOD:

**Recommendation 1:**

Create oversight committees, including an audit committee

**Response – NCTPA:** On September 16, 2009, the NCTPA Board of Directors created the “Transit Efficiency Committee” to assist the full Board in the monitoring the performance of the Transit Services Contractor (Veolia Transportation) which will sunset after 2 years unless the Board takes action to continue said committee. This committee meets quarterly to assess the Transit Service contractor’s performance to the measures put forward in the contract and RFP 09-01.

**Recommendation 2:**

Correct the deficiencies listed in the latest outside audit and other regulatory agency reviews

**Response – NCTPA:** The Executive Director and its Board of Directors concur with this Recommendation.

**Recommendation 3:**

Focus on NCTPA stated main purpose of providing for transportation planning and services delivery

**Response – NCTPA:** The Executive Director and its Board of Directors concur with this Recommendation.

**Recommendation 4:**

Prepare and publish a budget summary each year with sufficient detail which can be easily understood by the public

**Response – NCTPA:** The Executive Director concurs with this Recommendation.

**Recommendation 5:**

Develop a plan for the Agricultural Worker Vanpool Program to be self sufficient after June 2011

**Response – NCTPA:** The Executive Director concurs with this Recommendation.

**Recommendation 6:**

Establish a plan to seek ongoing funding for street and roadway repair and maintenance

**Response – NCTPA:** The Executive Director concurs with this Recommendation.

NCTPA would like to take this opportunity to clarify the following information contained in the Grand Jury Report.

**a) SUMMARY (pg. 1)**

The NCTPA's stated goals include the maintenance of our roadways, land-planning oversight, and many other functions listed in this Report.

**Response – NCTPA:** The statement as written seems to imply that NCTPA oversees the maintenance of roadways for the Napa Region. Maintenance and repairs of roadways for the Napa Region are the direct responsibility of the six governmental entities within the county. NCTPA helps to identify, plan and program Federal and State funds that are available to the region through formula and street classification.

Although there are stated interests to maintain street and road infrastructure and to invest in strategic road system expansion in South County, the public has not seen much evidence of these elements being a priority at the NCTPA. Many of the roadway repairs completed last year were funded by the American Recovery and Reinvestment Act (ARRA) rather than from an on-going maintenance program.

**Response – NCTPA:** Napa County is one of a few counties within the nine-county Bay Area that does not have a dedicated transportation sales tax known throughout California as a "Self-Help" county. They are responsible for delivering voter-approved transportation sales tax measures throughout the state. Without such dedicated funding makes it extremely difficult to deliver many of the region's priority transportation projects. The Metropolitan Transportation Commission administers and allocates by formula all of the available Federal and State monies it receives that then NCTPA plans, programs and distributes to its member jurisdictions. NCTPA also serves to distribute and program by issuing Calls for Projects of available funding for state and local programs such as the Transportation for Clean Air administered by the Bay Area Air Quality Management District (BAAQMD). However, it is worth noting that some programs are established with very specific criteria and conditions that must be met in order to qualify. Federal funds require a local match of either 10 to 20% of the total project costs. Use of federal funds also triggers full compliance of all

federal requirements such as Timelines; Procurement; Environmental; Reporting; etc. ARRA serves as a prime example in both project delivery and source of funding to which Napa County delivered 100% of its allocation.

#### **b) BACKGROUND (pg. 2)**

The NCTPA is the public agency that operates the transit system (public buses and paratransit vehicles) in Napa County. The NCTPA is also involved in other lesser known activities/services. In addition to providing the bus and van services in our communities, the NCTPA manages the following activities:

- Agricultural Workers Vanpool program  
**Response – NCTPA:** In 2008, a Feasibility Study concluded that this program was both viable and warranted in the Napa Valley region. This new program was launched by NCTPA in June 2009.
- Provides staff for the Arts Council  
**Response – NCTPA:** NCTPA does not provide staff for the Arts Commission but does provide its meeting facility. One member of the agency provides staff assistance to the Arts Commission pro bono.
- Assists the Transportation for Clean Air Program in Napa County  
**Response – NCTPA:** NCTPA serves as the County Program Manager for Napa County as defined in its bylaws.
- Establishes the Climate Protection Plan for Napa County  
**Response – NCTPA:** NCTPA served in an advisory role to help to establish the framework of the Climate Action Plan through a collaborative process for Napa County.
- Develops potential land use planning regulations  
**Response – NCTPA:** NCTPA serves in an advisory role to assist its member jurisdictions in reviewing potential land-use planning regulations.

#### **History of Napa County Transportation and Planning Agency (pg. 4)**

Individuals interviewed indicated that during this period of time there was little direct oversight of the NCTPA. Due to the technical nature of the operations of the NCTPA, the BOD appears to have accepted most of the recommendations presented to them by staff.

**Response – NCTPA:** The Board of Directors does not agree with both statement as written and takes exception. At no time has NCTPA or its staff has ever gone without executive management oversight. First, NCTPA is required to hire or contract for the provision of the services of an Executive Director to serve as chief administrative officer of the NCTPA (Joint Powers Agreement). Throughout the history of the agency, the BOD has taken whatever means necessary to ensure that this position has been filled whenever a vacancy has occurred. The BOD does acknowledge that deferring reassessment and realignment or its staff or its decision to become independent in 2008 until after a new Executive

Director was hired may appear to have been a missed opportunity. Audits while they are a useful tool in noting deficiencies do not prescribe or dictate solutions. The development and implementation of policies and procedures stem from Best Practices and trial & errors.

The wording of the last statement is misleading. Virtually all of the agency's activities either stem from or are dealt with by each member jurisdiction at the local level before the BOD hears them. Often times an item is heard and continued over a series of months to ensure it meets the 3C planning process of continuing, cooperative, and comprehensive before it is approved or adopted by the BOD.

**c) METHODOLOGY (pg. 5)**

**Response – NCTPA:** It is unclear what approach or how the elements listed on page five were used to seek out and validate and verify statements made throughout the report. It is customary to include a written description of the author's rationale and the assumptions that underlie a particular study relative to the method use.

**d) DISCUSSION (pg 9)**

**v) The VINE Contract**

All transit services are contracted with Veolia Transportation under a five-year agreement approved in September 2009 by the BOD. This approval was contrary to staff recommendations. The BOD approved a request for proposal (RFP) on July 25, 2008, which was sent out to transportation operators before it was reviewed and approved by County Counsel. The RFP was quickly rescinded. The RFP was re-issued and two proposals were received in June 2009. At that time, staff made the recommendation to award the contract to MV Transportation, but the BOD issued the contract to Veolia. Currently there is pending legal action against the NCTPA by MV Transportation regarding the Veolia contract. While the NCTPA indicates that the contract award was completed in a legal manner, the court will make the final determination.

**Response – NCTPA:** Originally, the City of Napa contracted for the Fixed Route intercity and intracity transit services with the Volunteer Center overseeing both the local shuttle and paratransit services. Both of these contracts conveyed to NCTPA as part of the consolidation of transit services as mentioned above in 2001. In November 2007, NCTPA issued a Request for Proposal for a Transit Service Provider that combined all these services under one six-year contract.

On April 30, 2008, after receiving two responses and tentatively awarding, decided to cancel this solicitation. Staff also agreed to return to the Board with a Request for Proposal to hire a consultant who would be tasked with creating a

new request for proposal and managing a new procurement to solicit firms to provide contracted transit services to NCTPA.




On July 25, 2008, the BOD authorized the release of an RFP for Procurement Services to develop a Request for Proposal for a Transit Service Provider. Included for your information is the cover page with approval by County Counsel prior to its issuance.

**REQUEST FOR PROPOSAL**  
(RFP#0801)

For  
**Procurement Services**  
For  
Assisting NCTPA to Procure Transit Services  
In  
Napa County  
Friday, August 1, 2008  
(Proposals due Friday, September 5, 2008)  
At 12:00 NOON, PST)

by  
Napa County Transportation and Planning Agency

Release of RFP authorized by:

	7/31/08
Jeff Leddy, NCTPA Executive Director,	Date
	7/31/08
Diana Vargas, NCTPA Procurement Officer,	Date
	7/31/08
Rob Paul, NCTPA Legal Counsel,	Date

NCTPA received five responses to its solicitation and was prepared to make a recommendation to award at its January 2009 BOD meeting. On February 18, 2009, after review by the new Executive Director he recommended that NCTPA staff undertake the revision of the Transit Operator Services Request for Proposal for release to prospective Proposers no later than April 1, 2009. The Executive Director also recommended that the Board reject all bids for RFP # 0801, the RFP issued for the development of a revised Transit Services Operator Request for Proposal, which would save the agency \$60,000. On March 31, 2009, NCTPA issued the Request

for Proposal and as stated above received two proposals. The legal action is no longer pending and the Superior Court of Napa after a Writ of Mandamus was filed, upheld the procurement process as administered by staff and found no wrongdoing. It also upheld the decision made by the BOD of its award.

**vii) Management of Consultants and Grants (pg. 12)**

In past years, management of grants has been criticized for lack of oversight and compliance with regulations. The NCTPA was recently subjected to public criticism when a story published in the Napa Valley Register indicated that there was a mismanagement of over \$2,600,000 in grant monies. Several of the deficiencies listed in the June 30, 2009, NCTPA audit indicate that it repeatedly failed to create proper internal controls to monitor grants and reimbursement procedures. It is very important to correctly track federal grant monies, otherwise anticipated reimbursements could be withheld or services denied. Another deficiency listed in the 2009 audit indicates that the NCTPA has been out of compliance by not submitting required quarterly reports to the MTC. Thus, the MTC may impose sanctions against the NCTPA. At the time of this investigation, it is still unclear if the NCTPA established all the required internal control systems to satisfy the grant and regulatory agency's requirements.

**Response – NCTPA:** As noted above, NCTPA became an independent agency on July 1, 2008. Up until then NCTPA staff relied on oversight by the County of Napa's Auditor-Controller and its External Auditor to assist with its grant management practices. It lacked the necessary tools to track and properly monitor both its federal and state grants, which predate the agency. NCTPA has brought onboard-trained staff that has actual hands on experience with tracking and monitoring grants as recommended by the internal audit. In addition, NCTPA is reassessing its staff and is conducting a Classification Study, which had never been undertaken by the agency.

As to any reference of mismanagement of over \$2 million dollars in grant monies, NCTPA has now learned that this was in error. The Metropolitan Transportation Commission (MTC) had initially indicated at the end of June 2009, that the agency had failed to apply for its FY 2007-2008 Section 5307 funding allocations. In May 2010, in preparing to submit an application and programming of those funds MTC found records showing that the agency had already applied for the funds in question. We wholeheartedly agree that it is very important to correctly track and monitor grant monies to manage the risk of any loss of funds.

Beginning in September 2009, NCTPA took the necessary steps with the assistance of MTC to bring its monthly and quarterly reporting back into compliance. Early FY 2009-2010 NCTPA made the decision to change from cash to an accrual basis accounting system done so that the agency can monitor its performance, it also allowed for establishing a set of financial controls that will satisfy the agency's requirements under the various programs.

#### **ix) Oversight and Accountability**

**Response – NCTPA:** NCTPA completely agrees with the statement that its residents should expect a scale of transportation fitting the rural character of Napa County. NCTPA and its BOD are committed to regain the public's trust and work together to help identify solutions and much needed improvements.