



# Napa County Grand Jury 2017-2018

*Serving Napa County and  
its Citizens Since Statehood*



Photo Courtesy of Kort van Bronkhorst

*Consolidated*  
**FINAL REPORT**

# CONSOLIDATED FINAL REPORT

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## The 2017-2018 Napa County Grand Jury



Front row: Karen Burzdak, Krys Wulff, Bob Whitsen, Lauren Griffiths.

Middle row: Kenzie Nicoll, Walt Spicer, Mark Limon, Kort van Bronkhorst, Chuck Dell'Ario, Rob Feckner

Back row: John Flemer, Ira Schwartz, Bob Edmondson, Gary Ettinger, John Morris, Shawn Rau

Not pictured: Larry Green, Lorraine Schaufel

2017-2018 Napa County Grand Jurors

Alan Charles Dell'Ario, Foreperson	Napa
Karen Burzdak	Napa
Robert Edmondson	Napa
Gary J. Ettinger	Napa
Rob Feckner	Napa
John Flemer	Napa
Larry Green	Napa
Lauren Griffiths	Napa
Mark Limon	Napa
John Morris	Napa
Kenzie Nicoll	Napa
Shawn Rau	Napa
Lorraine Shauffel	Napa
Ira Schwartz	Napa
Walter Spicer	Napa
Kort van Bronkhorst	Napa
Robert Whitsen	St. Helena
Krystyna Ann Wulff	Yountville



## NAPA COUNTY GRAND JURY

1754 Second Street, Suite D

Napa, California 94559

June 29, 2018

To our fellow Napa County citizens:

Your 2017-2018 Grand Jury is pleased to present our Consolidated Report. Our nine investigative reports and a review of the agency responses to the reports prepared by last year's Grand Jury follow.

Our term of service began July 11, 2017 when we were sworn and then charged by now-Presiding Judge Elia Ortiz. The work of the Grand Jury is arduous and over the course of the year seven jurors withdrew to be replaced by six alternates.

The Grand Jury experienced some turbulent times. Two jurors lost their homes in the October fires and we did a report on the County's emergency alert system. Our Williamson-Act investigation led to a rarely-issued Accusation for official misconduct and an Order to Commence Suit to recover unpaid taxes. Those matters are still pending.

Through County Counsel, we requested the state Attorney General to provide an opinion whether state statutes require grand juries to investigate the jails every year as is the practice here in Napa. The Attorney General is actively preparing his opinion that will impact all 58 grand juries state-wide.

We thank the citizens who brought issues to our attention. We thank all the citizens and all county, city, and local government employees who cooperated in our investigations. Without their help, we could not have accomplished what we have.

We hope you find our reports informative and agents for the changes in government we think will make Napa County a better place. We appreciate the opportunity to have been in your service.

Very truly yours,

Alan Charles Dell'Ario  
Foreperson, 2017-2018



## NAPA COUNTY GRAND JURY

1754 Second Street, Suite D

Napa, California 94559

June 27, 2018

Honorable Elia Ortiz, Presiding Judge and  
Judges of the Superior Court

Your Honors:

Thank you for the opportunity to serve as the 2017-2018 Napa County Grand Jury. We are honored to have been selected to do this important work. We are pleased to present our Consolidated Report.

The Grand Jury found itself faced with new and different challenges from those faced by prior juries. We learned from these challenges and hope we established precedent for juries to come.

Our endeavor would not have been possible without the able assistance of our counsel, Silva Darbinian, and Solano County Counsel Dennis Bunting and Deputy Solano County Counsel James Laughlin, who stepped in when Silva had a conflict. Thanks, also, to Judge Ortiz who reviewed and approved all our reports.

We hope you agree that our nine investigative reports and response review have made a worthwhile contribution to good government in Napa County.

Respectfully,

Alan Charles Dell'Ario  
Foreperson, 2017-2018

# Acknowledgements

The 2017-2018 Napa County Grand Jury acknowledges assistance and support from:

Honorable Elia Ortiz, Presiding and Grand Jury Supervising Judge

Silva Darbinian, Chief Deputy County Counsel

Dennis Bunting, Solano County Counsel

James Laughlin, Deputy Solano County Counsel

Richard Feldstein, Chief Executive Officer, Napa County Superior Court

Connie Brennan, Court Administrative Assistant, Napa County Superior Court

Helene Franchi, Deputy County Executive Officer, County of Napa

The Gasser Foundation, Joseph Peatman, President and Jennifer Johnson, Office Manager

Sean Scully, Editor and the reporting staff, *Napa Valley Register*

Steven B. Piser, Law Offices of Steven B. Piser

Napa Chapter, California Grand Jury Association

California Grand Jury Association

The Napa County employees who assisted in our investigations

## **Overview of the Napa County Grand Jury**

The Grand Jury is a judicial body comprising nineteen citizens. Once impaneled, it acts as an “arm of the court,” as authorized by the State Constitution and to be a “watchdog” for the people of the community. Its activities are funded by the County, which adopts a budget for the Grand Jury.

The present Grand Jury system evolved from earlier ecclesiastical courts beginning in 1164 when Henry II of England impaneled the first 16-man Grand Jury to remove criminal indictments from the hands of the church. In 1635 the first American Grand Jury was impaneled in the Massachusetts Bay Colony and by 1683 Grand Juries were present in all of the colonies. These early Grand Juries began the practice of returning “presentments,” which were primarily against public officials and different from criminal indictments.

Only a few states now have some form of Grand Jury with any type of “watchdog” function. California, where Grand Juries have existed since the original constitution in 1850, has the last remaining comprehensive Grand Jury system.

### **Grand Jury Functions**

By law a Grand Jury has three distinct functions: indictment, accusation, and investigation. Indictment is the act of bringing criminal charges against a person. Accusation is the act of bringing charges against an official of government or of a public agency that may result in removal from office. By far the most frequently exercised function is that of civil investigation known as the “watchdog” function.

In this function, the Grand Jury investigates areas of government to determine if it can function better, save money, reduce staffing, and generally examine the way governments conduct business, particularly with respect to any evidence of malfeasance, misappropriation or mismanagement. Committees are formed to study citizen complaints or comments and to visit various county and city facilities. The Grand Jury may select additional areas for review.



The Grand Jury's jurisdiction is countywide. It covers any elected or appointed official and any government body connected to the County, including a city, special district, joint-powers agency, redevelopment agency, housing authority, all special purpose assessing or taxing districts, plus jails and prisons in the County. School districts are covered as to their operations and administration, but policy and curriculum are state functions and are outside the Grand Jury's jurisdiction. Private partnerships and contracts can be investigated only in regard to the local government aspects of any contract. The Superior Court is a state body and cannot be investigated.

### **Selection & Qualification of Grand Jurors**

Each of California's 58 counties empanels a new Grand Jury to conduct civil investigations of county and city government and to consider evidence to decide whether to return accusations for government official misconduct or criminal indictments. Grand Jurors are selected by the Judges of the Superior Court from a variety of means: applications, the petit jury rolls and personal knowledge. The Grand Jury operates on a fiscal year, July 1 to June 30.

Grand Jurors must be citizens of the United States, 18 years or older and a resident of the County for one year prior to being selected. They must be in possession of natural faculties, be of ordinary intelligence, of sound judgment, of fair character and have sufficient knowledge of the English language.

The Napa County Superior Court, with the assistance of the Napa Chapter, California Grand Jury Association, recruits jurors in the late winter and spring of each year. Persons interested in jury service should look for announcements at that time. More information is available from Court Administrative Assistant Connie Brennan at 707-259-8305, [Connie.Brennan@napa.courts.ca.gov](mailto:Connie.Brennan@napa.courts.ca.gov).



**NAPA COUNTY GRAND JURY  
2017-2018**

**June 15, 2018**

**FINAL REPORT**

**THE WILLIAMSON ACT  
IN NAPA COUNTY  
Subsidizing a Lifestyle**

**THE WILLIAMSON ACT IN NAPA COUNTY**  
**Subsidizing a Lifestyle**  
June 15, 2018

**SUMMARY**

In 1965, the Legislature enacted the California Land Conservation Act, better known as the Williamson Act (WA), to provide tax incentives to owners of agricultural land to maintain such land in agricultural production. Counties may contract with property owners whereby owners agree to restrict their land to agriculture for a minimum of ten years with automatic annual extensions. In exchange, the property owners receive a reduction in property taxes.

With the creation of the Agriculture Preserve zoning district in 1968, the people of Napa County formally declared their commitment to agriculture as the highest and best use of land in the unincorporated portions of the county. Through a succession of initiatives, they confirmed and extended that commitment through 2058. Land within the Ag Preserve (AP) zone and its associated Agriculture Watershed (AW) zone cannot be developed except for agriculture and related uses. Changes in zoning must be approved by the voters. WA contracts may only be let in the AP and AW zones.

As of January 1, 2017, there were 74,711 acres covered by Napa County WA contracts representing 848 separate parcels of land. For the 2017-2018 tax year which began July 1, 2017, owners of land under contract received a total reduction in value of \$548 million.<sup>1</sup> Given the County average tax rate of approximately 1.1 percent, the cost to the County and other agencies that rely on property-tax funding (e.g., cities, schools) is about \$6 million in 2017-2018.<sup>2</sup> While the amount of taxes lost annually has fluctuated, in the past ten years the total lost revenue is approximately \$60 million. The County's general fund share is over \$10 million—half of the unfunded portion of the new jail construction.

The Napa County Board of Supervisors (BOS) authorizes and executes the WA contracts between the County and the property owners. The Department of Planning, Building and Environmental Services (Planning Department) processes the applications and, with the Agriculture Commissioner, determines parcel eligibility. County Counsel approves the forms of the contracts. Once contracts are in place, the Assessor Division establishes the assessed values of the properties.

The Grand Jury found the BOS, in practice, exercises little, if any oversight, of the application process and no oversight of contract compliance and enforcement. Instead, the BOS relies exclusively on the various departments for these functions. Prior to the legal proceedings

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<sup>1</sup> Per the Assessor's webpage "Of the 848 parcels under contract, only 446 parcels shared that reduction since the other 402 parcels had a higher value based on agricultural income and remained at their Proposition 13 base year."

<sup>2</sup> Per the Auditor-Controller's office, in FY 17-18, schools countywide including the Napa Valley College receive 65 percent of the property taxes, cities 11 percent, the county 22 percent, and the balance is divided among special districts.

instituted by the Grand Jury regarding the Assessor, current supervisors were not knowledgeable of program provisions or its administration, and lacked understanding of the “size of the delta” or amount of property taxes foregone due to the County’s participation in the WA program.

Moreover, the Assessor Division does not conduct WA-contract assessment in accordance with the contract terms, relevant state statutes, and audit recommendations by the state Department of Conservation (DOC) and the Board of Equalization (BOE). The Assessor Division becomes aware of contract holders who are no longer eligible for a contract or who do not comply with contract terms such as responding to questionnaires requesting agricultural information needed to perform an assessment. This information does not find its way to Planning, the BOS, or the District Attorney in cases where statute violations occur.

According to the Director of Planning, Building and Environmental Services (Planning Director), “the uses allowed in the County’s agricultural zoning districts (i.e. AP and AW districts) are mirrored in the Williamson Act contracts as allowed uses.”<sup>3</sup> That is, the definitions of agriculture in both the contracts and the zoning ordinances are substantially identical. The Grand Jury agrees. In addition, the Grand Jury found that Napa County’s WA rules are substantially less restrictive than those of other grape-growing counties, providing for tax benefit for properties where little or no agricultural use occurs.

Under the WA, the county need not offer WA contracts at all, may change the length of contracts from ten to nine years (reducing the amount of lost tax revenue by 10 percent), and may phase-out (non-renew) contracts where the properties cease to be eligible or whose owners fail to comply with contract terms and the law. The WA contracts cost ordinary Napa County taxpayers millions of dollars per year but provide no more protection against development than do the Ag Preserve zone, Ag Watershed zone, and the General Plan.

The Grand Jury recommends the Board of Supervisors undertake a comprehensive review and revision of the WA rules, contract terms, and enforcement procedures. As part of this process, the BOS should explore whether to terminate or limit the WA program as provided by state law, and take steps to ensure that those property owners who receive WA tax benefits continue to be entitled to those benefits.

## **GLOSSARY**

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<sup>3</sup> Penal Code section 929 precludes the Grand Jury from releasing “the name of any person, or facts that lead to the identity of any person who provided information to the grand jury.” Seven witnesses testified under oath before the Grand Jury and the transcripts of that testimony have been made public by order of the Superior Court. In this report, where a witness is said to have “testified,” the Grand Jury refers to those public transcripts. Other attribution is to public presentations to the Board of Supervisors, such as the reference here to the Planning Director. His comments are part of his agenda letter to the BOS for May 8, 2018.

Proposition 13: A 1978 statewide voter initiative fixing property values for assessment purposes. It generally limits ad valorem property taxes to no more than 1 percent of assessed value and limits property-tax assessment increases to no more than 2 percent per year as long as the property is not sold. Once sold, the property is reassessed at the then-current fair market value (typically the sale price) and the 2-percent yearly cap becomes applicable to future years.

Minimum imputed income: A provision in Napa County Type-H Williamson-Act contracts at paragraph VIII establishing a minimum per-acre income for assessment purposes.

## **BACKGROUND**

The 1965 Williamson Act authorizes county boards of supervisors to enter into contracts with owners of agricultural land to maintain that agricultural use for a minimum of ten years with automatic annual extensions. In return for keeping the land devoted to agriculture, the owner may receive a property tax benefit in the form of a reduction of the property's Proposition 13 value or current market value. In other words, the Assessor values land under a Williamson-Act contract at the lesser of:

- The value derived from capitalizing the agricultural income
- The Proposition 13 value
- The current market value

The WA only affects assessed values of the land itself. Physical and growing improvements are assessed separately under Proposition 13. In 1969, Napa County began offering Williamson Act contracts to owners in the Ag Preserve and Ag Watershed. It continues to offer contracts. As of January 1, 2017, there were 74,711 acres covered by Napa County WA contracts representing 848 separate parcels of land.

In 1971, the Legislature enacted the Open Space Subvention Act, which created a formula for allocating annual payments from the state to the counties to offset the loss of property tax revenue from their participation in the WA. Subvention payments were made through FY 2009, but California has suspended them since due to state revenue shortfalls. To offset the loss of these payments, new legislation permits counties to "shorten" their contracts to nine years, reducing owners' tax benefits by ten percent. The BOS has not elected to do so since the option became available in 2011.

## **METHODOLOGY**

The Grand Jury investigation included:

- Interviews with staff or executives from the Planning Department, Agricultural Commissioner's Office, Assessor Division, County Executive Office, and members of the Board of Supervisors;
- Sworn testimony by Assessor Division and Planning Department staff;

-- Documentary information from the Agricultural Commissioner's Office, Planning Department, Assessor Division, County Counsel Office, Auditor-Controller Office, California Department of Conservation, and state Board of Equalization;

--Electronic research of sister-county WA programs; Napa County BOS agendas, meeting documents and videos; Napa County website documents; Department of Conservation website documents; Board of Equalization website documents and assessor handbooks; and

-- Legal research of state codes and opinions of the California Attorney General, Courts of Appeal, and California Supreme Court

## **DISCUSSION**

### **Administration of the Williamson-Act program in Napa County**

The County currently offers three different WA contracts—the “Type A” contract for property zoned in the Agricultural Preserve, the “Type C” contract for five- to ten-acre parcels in the AP with unique characteristics, and the “Type H” contract for property zoned outside the AP. In 2016-2017, approximately two-thirds of the contracts were Type-A, and the rest Type-H or other now-discontinued contract types (Type E or F). No Type-C contracts currently exist.

### **Eligibility**

In general, to be eligible for a Napa County WA contract, a parcel must be at least 10 acres if considered prime land as defined by the Act, and 40 acres in areas less suited to intensive agricultural production, e.g., grazing. In addition, each contract applicant must show agricultural income from the property in three of the past five years. Certain non-agricultural uses deemed compatible to agriculture are permitted such as a single residence, a winery, or a cell-tower.

### **Application and Approval**

The County accepts applications to enroll a parcel into the program annually in September. Contracts for qualifying parcels are recorded by December 31, following approval by the Board of Supervisors at its first meeting in December. The applications are processed by the Planning Department with the Agricultural Commissioner verifying the claimed agriculture use through aerial photos or site inspection.

### **Determining Assessed Values**

In general, real property is assessed using the market-value approach. When a property is bought and sold, the “market” determines the value. This market value becomes the assessed value that can only be raised 2 percent annually under the provisions of Proposition 13. Property subject to a WA contract is assessed differently. The assessor must determine the income the property generates and then capitalize that income to arrive at assessed value.

For vineyards and wineries under Type-A contracts, the Assessor Division, by contract, must use the greater of actual agricultural rental income or “fair rental income” the property is capable of earning. The assessment is computed separately for the vineyard land, the vines, the wineries and buildings, and the sites for those wineries and buildings.

Vineyard-land leases exist in Napa County, but they are long-term and location-specific, meaning a lease in Pope Valley has little application to values in Rutherford. With the lack of adequate comparable-site information, the Assessor Division has divided the county vineyard land into ten geographic zones and assigned land values based on assumed lease rates that are then capitalized at 4 percent. The lowest assumed rates are in Pope Valley; the highest are in Rutherford. The Assessor Division's assigned values in zones 1 to 10 are: \$1200, \$2000, \$2800, \$3600, \$4600, \$5600, \$6600, \$7600, \$8600, and \$9600. Multiplying these assumed lease rates by 25 (4 percent x 25 = 100 percent) yields the assumed market values the Assessor Division uses. (For example, a Rutherford vineyard would be in zone 10. Its per-acre value is  $\$9600 \times 25 = \$240,000$ ; a Pope Valley vineyard would be  $\$1200 \times 25 = \$30,000$ .) The Grand Jury could find no empirical data or documentation to support these lease rates or the capitalization rate of 4 percent, all of which appear to exist solely as a matter of past Assessor Division practice and discretion.

Very few wineries are leased in Napa County and the Assessor Division does not maintain actual rental-income data. The winery sites are valued using industrial-lease rates last revised in 1996. Winery-site values the Assessor Division uses do not include the value of entitlements such as tasting-room permits. Winery buildings, residences, and other accessory structures are valued using Proposition 13 or market values. That is, structures do not receive WA tax benefits.

For the vines, the Assessor Division first derives a vineyard's gross income. They take the countywide per-ton price for each grape varietal and multiply that price by the owner's five-year average production tonnage for each varietal. Owners who fail to return the Assessor Division questionnaires are assigned a production tonnage equal to one-and-one-half times the County average. The Assessor Division then takes the information from the owners' questionnaire responses and attempts to derive a county-average-per-acre vineyard expense figure. This average per-acre expense is multiplied by the number of acres in the vineyard and then subtracted from the derived gross income. The resulting derived net income is then capitalized and compared to the Proposition 13 and current market values. The property is assessed and taxes are calculated using the lower of the Prop 13, market, or derived value.

For grazing lands, Type-H contracts direct the Assessor Division to use the greater of actual rental income or "fair rental income," but not less than a minimum-imputed income based on parcel size. At the time a contract is entered into, a minimum per-acre income is made part of the contract.<sup>1</sup> In practice, the Assessor Division does not attempt to estimate "fair rental income" but relies exclusively on minimum-imputed income values.

Additionally, the Assessor Division must separately value all compatible uses on any contracted properties – non-living improvements such as wineries and tasting rooms. Actual or imputed income from these uses is capitalized to arrive at land value.

All Napa County Williamson-Act contracts require owners furnish income and expense information to the Assessor Division upon request. The Assessor Division mails a questionnaire each year to vineyard landowners and has mailed questionnaires to owners of grazing lands in 2010 and 2015. The owner is asked to report the nature of the agricultural enterprise, its income and expenses and, if a vineyard, the production. The Assessor Division's right to this information

is also based in the law. By statute, the Assessor Division is entitled to all information “essential to the proper discharge of the assessor's duties.” An owner’s refusal to furnish this information to the Assessor Division is a misdemeanor. It is also a misdemeanor to willfully make a false statement concerning a fact involved in the imposition of a tax.

**The Napa County Williamson-Act program does not achieve benefits beyond those provided by the AP and AW zoning**

One witness before the Grand Jury characterized the County’s WA program as “welfare for the rich.” Another observed it “subsidized a lifestyle” rather than provided protection from development. The WA program in Napa does not appear to afford any more protection from the urbanization of agricultural land than the General Plan and the AP and AW zoning rules already do.

Napa County code section 18.16.010 provides:

The AP district classification is intended to be applied in the fertile valley and foothill areas of Napa County in which agriculture is and should continue to be the predominant land use, where uses incompatible to agriculture should be precluded and where the development of urban-type uses would be detrimental to the continuance of agriculture and the maintenance of open space which are economic and aesthetic attributes and assets of the county.



According to the Department of Conservation, the WA exists for the same purpose: “restricting specific parcels of land to agricultural or related open space use.” The basic agreement in the Napa County contracts is to limit use “to agriculture and other uses compatible with agriculture.” Under Revenue & Taxation Code § 430, agriculture is presumed to be the highest and best use for a WA parcel.

The Planning Director recently told the BOS in an agenda letter for May 8, 2018, “the uses allowed in the County’s agricultural zoning districts (i.e. AP and AW districts) are *mirrored* (Grand Jury emphasis added) in the Williamson Act contracts as allowed uses.” Another Planning staff member told the BOS in December 2017, the uses “match” each other. The Grand Jury’s comparison of the permitted uses under zoning and under contract substantiates the Planning Department’s analysis – the Williamson Act does not appear to provide a tangible benefit to the taxpayers of Napa County.

Despite the limitations on development from the County’s planning and zoning rules, Napa County agricultural land has become some of the most highly prized and valued agricultural land in the world. Yet the County taxpayers are subsidizing the owners of that land. In his comments to the BOS on May 8, 2018, the Assessor pointed out that the owners of newly-acquired vineyards are benefitting most from the WA-program.<sup>3</sup> Because WA assessment is on a capitalization-of-income basis, as grape prices have risen, the longer-held vineyards have lower assessments under Proposition 13 than they do under the WA. In other words, the WA-tax benefit is concentrated in the hands of those most able to afford market-rate tax assessment—the wealthy and the corporations as they buy up Napa County agricultural land.

In a January 2011 presentation to the BOS, the Assessor characterized the County’s lost tax revenue as an “insurance premium” against urbanization, but what insurance are the taxpayers actually receiving for their premium and who is underwriting this insurance? Is this lost revenue a give-away to the very people paying inflated land values, at the expense of the County, the schools and the cities that share in the property tax revenue? The Grand Jury believes the BOS should cause an independent study to be made to determine whether the perceived benefits of the WA program justify the costs in lost tax revenue.

#### **Assessment is not conducted according to contract, rule, and law**

Many problems apply to the assessment of property under Williamson-Act contracts in Napa County.

*Under reporting:* The assessment process depends heavily on self-reporting by the owners. The contracts and the state Revenue & Taxation Code require owners to respond to Assessor Division inquiries.

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<sup>3</sup> For example, the land component of a 67.7-acre parcel at Acacia Drive and Oakville Grade was assessed at \$15,393,524 in 2017, \$226,378 per acre, based on a recent sale. But under its WA contract the BOS approved in December 2017, the property is assessed at \$10,411,993, an assessment reduction of \$4,981,531. Taxes are approximately \$114,532 instead of \$169,329.

In 2016, owners of 542 separately-assessed vineyard parcels received questionnaires. Only 106 responded fully – 19.5 percent. The non-responding owners include many of the largest grape and wine producers in the valley. In 2015, owners of 266 separately-assessed grazing parcels received questionnaires. 161 responded – 61 percent. The under-reporting predates a 2010 state Department of Conservation audit that criticized the practice. In 2008, the Assessor Division mailed 289 grazing questionnaires and 183 responded – 63 percent.

Assessor Division employees testified that the information requested by the questionnaires is “essential to the proper discharge of the assessor’s duties.” A taxpayer who fails to provide the assessor with information essential to the proper discharge of the assessor’s duties commits a misdemeanor.

*Non-qualifying parcels:* Prime vineyard parcels must be a minimum of 10 acres. Non-prime grazing parcels must be a minimum of 40 acres. According to Assessor Division and Planning staff, parcels must generate agriculture income. Approximately 20-25 parcels exist that do not satisfy the size requirements. Per the 2015 questionnaires that were returned, approximately 50 non-prime grazing parcels do not generate agriculture income and are effectively “open space.” Open-space Williamson-Act contracts are not offered in Napa County. The issue has existed at least since 2008 when 55 grazing-contract owners returned questionnaires acknowledging that they had no agriculture use on their properties.

*Lack of current valuation rates:* For WA assessment purposes, Revenue & Taxation Code section 423 requires income to be calculated on “typical rentals received in the area for similar land in similar use.” Type-A contracts require the Assessor Division to value the properties at the higher of actual income or fair rental income. Type-H contracts require assessment at the higher of actual income or fair rental income but not less than a contract-specified minimum income per acre.

The Assessor Division does not attempt to assess each parcel based on its actual income. For vineyard/winery properties the Assessor Division attempts to calculate fair rental income in the manner discussed above. The Assessor Division uses assumed industrial lease rental rates from 1996 to value winery and tasting room sites. The Assessor Division has not attempted to update these values since 1996.

The Assessor Division does not attempt to determine either the actual or the fair-rental income for the Type-H grazing parcels. Rather the Assessor Division exclusively uses the contract-specified minimum imputed income to value grazing parcels. The minimum-income values range from \$175/acre for 11- to 21-acre parcels to \$10/acre for parcels greater than 400 acres. The corresponding assessed values under current capitalization formulas are approximately \$3,000 per acre to \$175 per acre.

The Grand Jury learned that the source of these minimum-imputed-income values is a “Rule 13” adopted by the BOS in 1969. The values reflected in Rule 13 are unchanged since its adoption and are still applied to all Type-H contracts, although the Planning Director reported to the BOS on May 8, 2018, that the rule as such was eliminated in 2001. Whether or not Rule 13 continues to exist, it occupies a curious place in the Type-H contract rules. It is not included in the

published Type-H rules and neither it nor the values set forth appear anywhere else on the County's website. It was not included in the 2008 revisions to County WA rules and contract forms. However, the joint Planning Department - Assessor Division response to the Department of Conservation audit in 2010 attached Rule 13 to describe how minimum imputed income worked in Napa County WA contracts.

A provision in Rule 13, which is incorporated into each Type-H contract, allows the Board of Supervisors to increase (or decrease) minimum-imputed-income-values every five years based on "the trend of real estate sales and rental values, and general economic movements." The Assessor has never requested the Board to adjust rates, either generally or on a contract-by-contract basis, and has never directed staff to conduct a rate study. The Assessor testified he was satisfied they were still current based on his experience as a rancher. The Assessor, as trustee of his family's trust, owns a Type-H parcel of approximately 1000 acres and is assessed at a minimum imputed income of \$10 per acre. His assessment would increase with an increase in imputed-income values.

The Grand Jury could find no evidence that County supervisors were aware of Rule 13, its minimum-imputed-income values, or of their options to revise those values globally or on a contract-by-contract basis, at least prior to the Grand Jury's initiation of legal proceedings against the Assessor. At a December 2017 BOS meeting, one supervisor expressed a lack of understanding about what a Type-H contract was.

*No compliance efforts - how long has this been going on?* In 2008, discussions occurred between the Assessor, Agriculture Commissioner's office, Planning Department and County Counsel regarding 55 parcels subject to grazing that did not have agriculture use. No apparent follow-up took place. That same year the BOS revised the WA contracts and rules but BOS archives do not reflect any discussion of compliance or enforcement.

On February 22, 2010, the state Department of Conservation audited the County's Williamson-Act program.<sup>4</sup> The audit found 40-50 percent return rates for vineyard and grazing questionnaires. It further found, "Any review of reported data is a 'judgment call.'" The audit recommended, "The County should establish procedures that require WA contract holders to complete questionnaires in a timely manner." It also recommended grazing-contract (Type-H) holders be sent questionnaires biennially (every two years).

The Assessor responded to the Department of Conservation recommendation by saying that a warning would be included in future questionnaire mailings. He further stated that biennial questionnaires would not be "cost-efficient" because "Napa County has a minimum imputed income for grazing contracts. (See Attachment 4.) We will upgrade our grazing questionnaire

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<sup>4</sup> The DOC no longer conducts audits due to funding limitations. The 2010 audit was the last one performed on Napa County's program.

survey to every three years in response to this recommendation.” The Grand Jury obtained the attachment<sup>5</sup> from DOC and confirmed it was Rule 13 with an explanation of how it works.

In preparing the joint Assessor Division – Planning Department response to the DOC audit, the various departments involved discussed whether to refer to the Planning Department and/or Agriculture Commissioner for non-renewal the persons who did not respond or responded indicating no-agriculture-use. No follow-up took place.

In 2010, 282 grazing questionnaires were to be sent. No apparent follow-up took place with owners who failed to respond or who indicated no agriculture income. The Assessor made the “judgment call” not to review the questionnaires that were returned. They were simply filed in the individual parcel folders.

In March 2013, the Assessor and then-Planning Director discussed enforcement of the Williamson-Act program. Per the Assessor, “We have identified a number of contracts that no longer meet the requirements of the CLCA and could be non-renewed.” No apparent follow up took place.

Notwithstanding his response to the Department of Conservation’s audit, the Assessor Division did not send 2013 questionnaires at all. The Assessor Division mailed questionnaires in 2015 to Type-H holders but again did not review those that were returned. They were simply batch-filed. This mailing did include a cover letter warning the owner of possible non-renewal if no compliance.

On May 8, 2018, the Planning Director and Assessor made a presentation to the BOS. The Board agenda letter from the Planning Director together with his and the Assessor’s oral presentation at the meeting substantially misstated the DOC audit finding. They also misstated the Assessor’s subsequent response, and omitted to state the Assessor’s failure to execute the corrective action he promised.

Contrary to the representations from the Planning Director and Assessor, the Assessor has not followed either the DOC recommendation or his partial agreement to comply with it. As noted, grazing questionnaires have not been sent every three years and those that were returned have never been reviewed. According to the Assessor, the grazing questionnaire data is not relevant because he continues in his belief that the 1969 Rule-13 minimum-imputed-income values represent current income levels.

Meanwhile, in August 2015, in response to a staff inquiry, the Assessor declined to transmit any information to the Planning Department regarding non-responding owners and non-qualifying parcels. Per the Assessor, that “is a Planning matter and to date they are not interested in undertaking that process. I may check again in 2016.” The Grand Jury could not confirm this statement with Planning Department staff. According to information received from the Assessor

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<sup>5</sup> The Assessor Division response letter to the DOC was provided to the BOS in connection with the Planning-Assessor presentation on May 8, 2018. The attachment showing Rule 13 was not included.

Division, 62 parcels exist that do not meet minimum size requirements. Over half of those 62 were smaller than 5 acres.

Per custom, the Assessor Division sent questionnaires to vineyard/winery owners in 2017. As noted, only 19.5 percent responded fully. Contrary to his representations to the Department of Conservation, the Assessor did not include any non-renewal warning in the transmittal letter. Non-complying property owners are assessed using one and one-half the county average tonnage for each grape varietal. The information concerning non-responding property owners is within the exclusive possession of the Assessor Division. The Grand Jury could find no evidence that the BOS or the Planning Department was made aware of this issue, which was identified by the DOC and never addressed.

The Planning Department, as directed by the BOS, has bolstered its code-enforcement efforts and has added additional staff for that purpose in recent years. The Grand Jury received conflicting information from the members of the Planning Department concerning department enforcement policy of WA contracts. Whatever the department policy is, the Planning Department has never undertaken any WA-contract enforcement or inquiry. The department's annual enforcement reports to the BOS have never discussed the WA program.

### **The Assessor's conflicts of interest and lack of internal controls taint the WA program**

The state Board of Equalization conducts assessment-practices surveys of county assessors.

#### *A 2013 Board of Equalization Assessment finds Assessor's conflict-of-interest procedures inadequate*

The survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (BOE) periodically reviews the practices and procedures (surveys) of every county assessor's office.

The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices.

The Assessor is required to submit a response to the Board of Equalization which then distributes its report and the Assessor's response to the Board of Supervisors and other interested persons and agencies, including the Grand Jury.

In 2013, the BOE released its survey of the Napa County Assessor's office. Among other things, the BOE reported on its examination of the "assessor's internal controls and safeguards as they apply to staff-owned properties and conflicts of interest." The BOE found:

- No written conflict-of-interest procedures existed. They had been drafted and were under review.
- A supervisor did not review most assessments as provided for in earlier informal policies and in recently developed written procedures.

-The Assessor Division's written procedures for the assessment of staff-owned property were limited and should be expanded to fully address related potential issues.

The final BOE recommendation was:

Develop and adhere to written procedures for incompatible activities and the reporting of economic interests, and expand and adhere to written procedures for maintaining the integrity of staff-owned property assessments.

The Assessor responded:

WE CONCUR. We have completed, adopted and are implementing written procedures for reporting of economic interests, incompatible activities and maintaining the integrity of the assessment of staff-owned properties.

*The procedures adopted by the Assessor remain inadequate with unqualified personnel expected to review assessments of property owned by the Assessor.*

In connection with this investigation, the Grand Jury requested the Assessor Division's custodian of records to produce: "Conflict of interest/Assessor's employees assessment procedures from 2005 to present."

The sole document the Grand Jury received was entitled "ASSESSOR DIVISION EMPLOYEE PROPERTY (rev. 9-16) (Conflict Procedures)." None of the Assessor's employees who testified could confirm the existence of an earlier document, notwithstanding the Assessor's 2013 response to the BOE that one was being prepared at that time.

The Conflict Procedures provide:

For properties owned by the Assessor-Recorder-County Clerk, all work performed must be reviewed by the Chief Appraiser and Staff Services Manager.

The Staff Services Manager, testified that he:

- was unaware of any prior versions of the Conflict Procedures and had not seen the document previously;
- generally did not perform the duties specified in the document for the Staff Services Manager except to hand out and collect employee-owned property forms; and
- had never reviewed the assessment of the Assessor's property and was unqualified to do so.

The Chief Appraiser, testified that he:

- had not participated in drafting the document;
- had little to do under the conflict procedures; and
- had not worked with the Staff Services Manager in reviewing the Assessor's property assessments.

In other words, despite his response to the 2013 BOE audit, the Assessor has failed to "Develop and adhere to written procedures . . . maintaining the integrity of [his own] property assessments." The Grand Jury believes the BOS should take all steps to ensure the Assessor Division and WA program operate in accordance with the law, the contracts, and best practices.

**The Board of Supervisors does not appear to have complete or accurate information about what the Williamson Act actually does, how the Williamson Act works, or the Board's options in implementing it**

*The BOS lacks complete information of the actual cost of the WA program to all County taxpayers*

As noted, the County's participation in the Williamson-Act program has cost the taxpayers approximately \$60 million over the last decade alone. Yet the Grand Jury learned that the BOS may not fully understand the actual cost. Supervisors the Grand Jury interviewed expressed surprise at the "size of the delta" or the amount of lost revenue the program creates. Part of that misunderstanding may stem from the failure of Assessor and Planning staff to apprise the BOS fully.

In the May 8, 2018, presentation to the BOS on the Williamson Act, the Planning Director stated the WA cost the County \$1 million per year, to which one supervisor expressed the opinion, "that's a very small investment." However, that \$1 million only represents the direct loss to the County's general fund, which receives but 17 cents of each property-tax dollar.

The County (along with other taxing jurisdictions) is required by state law to subsidize the state's education-funding obligations by "shifting" property-tax revenue that would otherwise go to the general fund to what is called the Education Revenue Augmentation Fund or ERAF. When the amount "shifted" exceeds the amount needed "excess ERAF" results in funds that are returned to the County general fund. "Excess ERAF" is projected to provide \$34 million to cost of the new jail according to a May 15, 2018 presentation to the BOS. 12.3 percent of the 2017-2018 property tax dollars went to ERAF.

The Grand Jury believes the BOS must consider the interests of all entities that rely on the property tax in making decisions regarding property-tax concessions. Napa Valley Unified School District's property-tax share is about 30 cents, nearly \$2 million in annual lost tax revenue. These funds would go a long way to closing the deficit in NVUSD's budget instead of having to close schools. Moreover, had the County's \$1 million per year been invested at 2.5 percent starting in 2008, that fund would be \$11.23 million today—money that could be applied to a new jail. Instead, as reflected in the May 15, 2018 BOS presentation, the BOS contemplates borrowing \$20 million to fund a new jail.

*The BOS does not have complete information of how the Williamson Act works*

Supervisors told the Grand Jury that they necessarily must rely on staff—the Assessor, the Planning Director, County Counsel and the Agricultural Commissioner—to keep them informed. The Board approves new WA contracts annually in December presented by the Planning Department staff responsible for processing the applications. The presentation is brief and without substantive discussion. BOS approval appears perfunctory. In December 2017, the BOS added 470 acres to the WA program through 10 contracts without substantive discussion.

County Counsel has not made any substantive presentation to the BOS about the WA since the contracts and rules were last revised in 2008. Even then, Counsel's presentation did not discuss any of the issues concerning contract owners non-responding to Assessor questionnaires or the undersized parcels enjoying WA-tax benefits.

Before the May 8, 2018 BOS presentation, the last staff presentation to the BOS about the WA program was January 25, 2011, during which the Planning Director and Assessor made a presentation regarding BOS options to recoup state subvention payments. As noted in the summary, in 1971 the state devised a formula for allocating annual payments from the state to the counties to offset the loss of property tax revenue from their participation in the WA called subvention. Subvention payments were made through FY 2009, but the state has suspended them since due to revenue shortfalls. To offset the loss of these payments, legislation was adopted to allow counties to "shorten" their contracts to nine years, thereby reducing the tax loss to the County from the WA program by ten percent. The staff presentation lacked any explanation of just how the new provisions would work. The Assessor, a WA contract holder himself, expressed strong opposition to implementing the legislation to shorten the contracts.

Under the legislation, the BOS has an annual option to recoup some of the WA-tax losses. The Grand Jury has found no record that Assessor Division staff advised the BOS of its options since 2011. Three members of the current BOS were not on the Board when staff last presented any information about the WA. Without on-going information from the Assessor Division, these new members likely do not even know of this option.

The on-going use of Rule 13's minimum-imputed-income values provides an example of the BOS's seeming lack of information about how the Williamson Act works in Napa County.. The Grand Jury learned that a 1996 revision to the Type-H rules included Rule 13. A 2001 revision did not. BOS materials furnished to the Grand Jury from the 2001 BOS action do not reflect any discussion concerning why it was omitted. The 2008 revision to the Type-H rules likewise do not contain a Rule 13 and the County Counsel's agenda letter does not discuss minimum-imputed-income. But, in 2010, the Assessor and Planning Director furnished Rule 13 to the DOC to justify not sending income questionnaires to Type-H contract holders every two years as the DOC had recommended. As noted, Rule 13's 1969 values are being applied to Type-H contracts to this day. The Grand Jury cannot find a record of any BOS action approving its continued use. Instead, Planning staff inserts Rule-13 values into new Type-H contracts and submits them to the BOS for approval. The BOS approves the contracts as a matter of course.

*The BOS does not have complete information on its options under the WA*

State law does not require the County to participate in the WA program. The BOS may "shorten" the contracts as indicated above to reduce the tax impact. The BOS may initiate legal action to enforce the contract for an owner's failure to comply with contract terms or failure to supply Assessor-requested information. The BOS may non-renew some or all WA contracts. Non-renewal starts a ten-year process whereby the affected property owner loses benefits over time.

The Grand Jury could not find any indication that the BOS has ever reviewed the Napa program and compared it to that of other counties or to DOC best practices. The differences are significant. For example, Napa County WA contracts only require some "bona fide agricultural



use” in three of the last five years. Thus, a 1000-acre grazing parcel of which only 10 acres are used for grazing enjoys the tax benefit for the entire parcel. In other counties, to qualify, a parcel must be utilized for agriculture in some minimum percentage of its total acreage, e.g. 90 percent (Stanislaus), 75 percent (San Mateo) 60 percent (Alameda, Santa Clara) and 50 percent (Sonoma). Solano County requires minimum agricultural production measured by dollar amount.

The other counties surveyed require continuous agricultural use. The Assessor Division has been aware since at least 2008 that many Type-H contract holders do not generate agricultural income. Both Planning and Assessor staff told the Grand Jury that agricultural income is a condition of a contract qualification but Napa contracts do not expressly require the properties continue in agricultural use.

The Assessor and his supervisory staff disclaimed the responsibility to inform the BOS concerning contract owners who were not in compliance with their contracts and the law in their testimony before the Grand Jury. The Grand Jury received differing information from the Planning staff it interviewed concerning Planning Department’s “interest” in WA enforcement. Regardless, neither the Planning Department nor the Assessor Division has made any substantive presentation to the BOS about WA enforcement within the last 15 years. Without accurate, current information from its staff, the BOS cannot effectively supervise the WA program.

Napa County’s agricultural land, particularly its vineyard land, is some of the most valuable in the world, with almost 44,000 vineyard acres producing a \$750-million annual crop. According to a 2017 *Western Farm Press* report, Napa Valley vineyard values are now at least \$400,000 an acre, due in a large part to the scarcity of available land in the prime-growing regions or appellations. Under this formula, the vineyards alone are worth \$17.6 billion. Yet, according to the Assessor, the assessed value of the vineyards in tax year 2016-2017 only accounted for approximately \$2 billion of the total \$32.7-billion assessment roll. These figures suggest that, even allowing for Proposition 13, Napa County agricultural land may be under-assessed. The figures also indicate the need for the Board of Supervisors to undertake a cost-benefit analysis of the Williamson-Act program to determine whether, and on what basis, Napa County continues to offer WA contracts. The figures also highlight the supervisors’ need to ensure the WA assessment and enforcement process is conducted in accordance with best practices, the contracts themselves, and the law.

## **FINDINGS**

- F1. The Napa County Williamson-Act program does not provide any more protection from development than does existing zoning and the General Plan.
- F2. The Board of Supervisors lacks adequate information about the workings of the Napa County Williamson-Act program, of BOS options under it, and of the total lost property tax revenue to all Napa County entities that share in the revenue.
- F3. Williamson-Act contract enforcement is non-existent. Planning and Assessor staff have not informed the BOS of undersize parcels, parcels without agricultural income, and

parcels whose owners do not supply Assessor-requested information as required by contract and by law.

- F4. The continued use of 1969 minimum-imputed-income values may result in Williamson-Act grazing parcels (Type-H) being systematically under assessed.
- F5. The Board of Supervisors has not exercised effective supervision of the Williamson-Act program since at least 2008.
- F6. The Assessor lacks adequate conflict-of-interest procedures regarding his own properties with unqualified personnel assigned to “check” any work.

### **RECOMMENDATIONS**

- R1. No later than November 30, 2018, the Board of Supervisors commission an independent cost-benefit analysis of the Williamson-Act program, with public input, in which the cost to all stakeholders (e.g. schools, cities, special districts) in property tax revenues is considered so that the BOS may make informed decisions regarding the County’s continued participation in the Williamson-Act program.
- R2. No later than November 30, 2018, the Board of Supervisors commission an independent study of the County Williamson-Act program to determine whether the program comports with those programs in other counties and with best practices, and to recommend revisions to the program, including revisions to the minimum-imputed-income values in Type-H contracts.
- R3. No later than October 31, 2018, the Board of Supervisors commission an independent audit of the Napa County Williamson-Act program by the Auditor-Controller or outside agency to determine to what extent contract holders are in compliance with their contracts, the WA rules, and the law.
- R4. No later than October 31, 2018, the Assessor revise his internal conflict-of-interest procedures so that at least two assessment-qualified personnel perform all the work on employee-owned properties.

### **COMMENDATIONS:**

- C1. The Grand Jury commends the County employees who came forward and assisted the Grand Jury with this investigation.

### **REQUEST FOR RESPONSES**

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following individuals:

- The Assessor-Recorder-County Clerk: F1, F2, F6, R4.

From the following governing bodies:

- The Board of Supervisors: F1, F2, F3, F4, F5, R1, R2, R3.

## **INVITED RESPONSES**

The Grand Jury invites responses from:

- The Director of Planning, Building and Environmental Services: F1, F2, F3, F4, F5, R1, R2, R3.

## **BIBLIOGRAPHY**

BOS meeting May 8, 2018 video:

[http://napa.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=4066](http://napa.granicus.com/MediaPlayer.php?view_id=2&clip_id=4066)

BOS meeting January 25, 2011 video:

[http://napa.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=1156](http://napa.granicus.com/MediaPlayer.php?view_id=2&clip_id=1156)

California Department of Conservation Williamson Act webpage (includes links to relevant statutes): <http://www.conservation.ca.gov/dlrp/lca>

Napa County Williamson Act Application (includes Type-A, Type-H contracts and rules)  
<https://www.countyofnapa.org/documentcenter/view/3384>

Napa County Assessor's Williamson Act webpage:

<https://www.countyofnapa.org/1088/California-Land-Conservation-Williamson-Act>

California Board of Equalization Williamson Act webpage (includes links to relevant statutes):

[http://www.boe.ca.gov/Assessors/pdf/clca\\_general.pdf](http://www.boe.ca.gov/Assessors/pdf/clca_general.pdf)

## **APPENDIX**

County of Napa Property Tax 1% Apportionment Factors FY 2017/18

2010 Department of Conservation Audit Findings and Joint Planning-Assessor response including Rule 13

May 8, 2018 Board Agenda Letter re Williamson Act

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

This report was issued by the 2017-2018 Napa County Grand Jury with the exception of a juror who is a former employee of the Assessor's Division. This Grand Juror was excluded from all parts of the investigation, including interviews, deliberations, and the writing and approval of this report.

APPENDIX I

COUNTY OF NAPA  
**PROPERTY TAX 1% APPORTIONMENT FACTORS**  
 Current Secured/Unsecured  
 FY 2017/18

	FUND	DESCRIPTION	17/18 CY APPORTIONMENT FACTORS
1	1000	NAPA COUNTY	0.171750
2	2100	FIRE NON-STRUCTURAL	0.015424
3	2020	LIBRARY	0.020266
4	2100	FIRE PROTECTION	0.014621
5		County subtotal	0.222061
7	15100	CITY OF CALISTOGA	0.004060
8	15200	CITY OF NAPA	0.050093
9	15300	CITY OF ST HELENA	0.009908
10	15400	TOWN OF YOUNTVILLE	0.002384
11	18175/71510	PARKWAY PLAZA RDA PROJECT	0.020516
12	18175/71520	SOSCOL GATEWAY RDA PROJECT	0.004573
13	18800	CITY OF AMERICAN CANYON	0.021408
14		City subtotal	0.112942
16	5220	LAKE BERRYESSA RESORT IMPROV	0.000074
17	5240	NAPA BERRYESSA RESORT IMPROV	0.000128
18	2860	MONTICELLO CEMETERY DISTRICT	0.000070
19	9504	CIRCLE OAKS WATER DISTRICT	0.000090
20	7400	CONGRESS VALLEY WATER DISTRICT	0.000215
21	18900	AMERICAN CANYON FIRE DISTRICT	0.010652
22	7100	NAPA COUNTY MOSQUITO ABATEMENT	0.003584
23	7300	NAPA COUNTY RESOURCE CONSERV	0.000896
24	7500	NAPA COUNTY RIVER RECLAMATION	0.000062
25	9503	BAY AREA AIR QUALITY MANAGEMENT	0.002726
26		Special District subtotal	0.018497
28	9020	HOWELL MTN ELEMENTARY SCHOOL	0.003739
29	9060	POPE VALLEY ELEMENTARY SCHOOL	0.003241
30	9300	FAIRFIELD-SUISUN UNIFIED SCHOOL	0.001623
31	9010	CALISTOGA JOINT UNIFIED SCHOOL	0.032803
32	9050	NAPA VALLEY UNIFIED SCHOOL	0.294192
33	9070	ST HELENA UNIFIED SCHOOL	0.077247
34	9030	NAPA VALLEY COMMUNITY COLLEGE	0.079593
35	9310	SOLANO COUNTY OFFICE OF EDUCATION	0.000065
36	9040	NAPA COUNTY OFFICE OF EDUCATION	0.030230
37	9490	ERAF	0.123767
38		Schools subtotal	0.648500
39		<b>Total</b>	<b>1.000000</b>

10/3/2017

3/5/2018

Assessor-Recorder-County Clerk  
Assessor Division

1127 First Street, Suite 128  
Napa, CA 94559-2931

(707) 253-4459  
Fax: (707) 299-4440

JOHN TUTEUR  
ASSESSOR-RECORDER-COUNTY CLERK



A Tradition of Stewardship  
A Commitment to Service

March 22, 2010

ATTN: JOHN BARR, CLCA PROGRAM  
DIV OF LAND RESOURCES PROTECTION  
801 K ST MS 18 01  
SACRAMENTO CA 95814

Dear Mr. Barr:

I am responding on behalf of Hillary Gitelman, Director of Conservation Development and Planning and for the Assessor-Recorder-County Clerk Department to the findings letter we received on February 22, 2010. I was asked to prepare the response as all the findings related to the operation of our department.

Accompanying this letter is a revised grazing and a revised vineyard questionnaire incorporating language as to possible non-renewal for failure to respond. There is no further implementation plan required.

**FINDING 1: No Open Space Contracts**

Condition: Several parcels, including but not limited to: APN's 050-380-010, 11; 032-080-081; 027-430-021; 020-340-030; 025-020-020, 021; 022-250-006; and 024-040-020, 21, 30, 41 are classified as partially or entirely open-space (OS) in the Assessor's Detailed Acreage Report (DAR). If those properties are OS use then the owners should be allowed to non-renew their WA contracts and re-enter into OS contracts.

*Received  
Yolanda  
3/22/10*

There is no provision for OS or recreation contracts.

**ASSESSOR RESPONSE TO FINDING 1: NO OPEN SPACE CONTRACTS**

During the audit our staff explained that the use of the word Open Space for certain acreage was a misnomer created by our Property Tax System Vendor. The correct designation for these acres should be "non-prime."

*Non prime is not grazing. As most areas it is  
buffer and should not receive a tax reduction  
based on grazing rates*

Attachment 1 is the screen (AS640) where we capture the acreage categories. There is a field for open space and no field for non-prime. We will work with our vendor to ensure that the next upgrade of the system renames that field to non-prime.

Attachment 2 is the Detail Acres Report ASR 70-2750-020. The use of "open space" should have been "non-prime." There is no non-prime category which confirms that "open space" is a substitute. We will work with our vendor to ensure that the next upgrade of the system renames that column to non-prime.

Attachment 3 is the Subvention Acres Report ASR 70-2750-070. The language of the report clearly indicates that Non-Prime on the report equals Open Space on the detail acres report. We will work with our vendor to ensure that the next upgrade of the system removes the need for the translation from one report to the other.

There are NO OPEN SPACE acres under contract in Napa County. All contracts are reviewed by the Agricultural Commissioner prior to being signed to ensure that a bona-fide agricultural use exists on the parcel to be placed under contract.

## **FINDING 2: Improve the Questionnaire Process**

**Condition:** The County Assessor's Office sends vineyard landowners annual questionnaires to collect information about production and crop activity. An income and expense questionnaire is sent at the same time. The response rate for the questionnaires is less than 50% and any review of reported data is a "judgment call."

The Assessor sends a separate questionnaire to landowners with property used for grazing purposes. The "grazing" questionnaires are sent every three to five years and have only a 40% response rate.

The Assessor's Detailed Acres Report (DAR) classifies non-prime land as OS but the questionnaires seek information on grazing activities. Are OS and grazing land classified as one in the same?

Parcel folders with completed copies of Napa's *Williamson Contract Agricultural Report* (ag report) do not indicate that a large portion of the site is actually OS. The form allows for such reporting under the heading of other, but typically such use goes unreported. Those parcel folders with incomplete ag reports leave it to the county to determine the agricultural activity occurring on the property.

**Recommendations:** A. The County should streamline their survey efforts by sending bi-annual questionnaires to all WA contract holders. The new questionnaires would collect information for all ag activity. The current vineyard only form would be enveloped by the all ag activity questionnaire and OS activity on the same form. This could be done by separating grazing land from OS land.

**ASSESSOR RESPONSE TO FINDING 2, Recommendation A:**

As discussed in ASSESSOR RESPONSE TO FINDING 1: NO OPEN SPACE CONTRACTS, there are no open space contracts or lands under contract in Napa County. We believe that a separate, annual questionnaire for vineyards is necessary because vineyard changes happen on a more frequent basis and more data needs to be tracked. We will discuss including a grazing activity questionnaire in the annual vineyard questionnaire for those few parcels that have both vineyard and grazing activities.

We have not felt that an annual or biannual grazing questionnaire is cost-efficient for two reasons:

- 1) grazing uses do not change frequently nor do grazing revenues change much over time.
- 2) Napa County has a minimum imputed income for grazing contracts (see Attachment 4).  
Grazing revenues are so stable in Napa County that the minimum imputed incomes still match or exceed the actual grazing revenue for grazing contracts in Napa County.

We will upgrade our grazing questionnaire survey to every three years in response to this recommendation. Our first survey in the new cycle will go out in the next 30 days for the 2010 contract valuation process.

Recommendations: B. Grazing is a form of ag activity but OS use may not satisfy WA requirements for ag. To ensure compliance with the WA and proper reporting of uses, the County should separate the reported use of grazing land from OS land as reported on the questionnaire.

*Disregarded*

**ASSESSOR RESPONSE TO FINDING 2, Recommendation B:** We have already discussed in Response to Finding 1 the confusion caused by the mislabeling of non-prime acres as open space in our vendor product. No open space lands are reported on grazing questionnaires.

Recommendations: C. The County should establish procedures that require WA contract holders to complete questionnaires in a timely manner. Landowners should be informed that if they fail to respond, their contracts will be considered for nonrenewal.

**ASSESSOR RESPONSE TO FINDING 2, Recommendation C:** The County will include a statement on future questionnaires informing contract holders that a timely response is required, and that failure to respond may lead to nonrenewal of their contract.

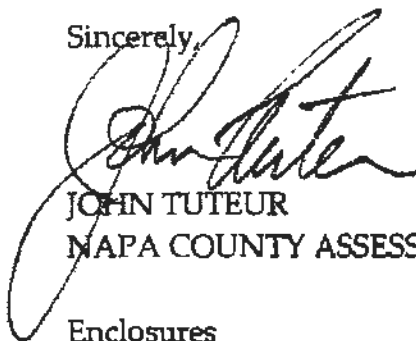
**CONCLUSION**

The auditor met with County staff throughout the audit process and discussed various issues. The Planner III in the Conservation Division manages the WA program. He has accurate knowledge of the program and maintains the records necessary to support the County's subvention report and to promote program goals.

The County appreciates the Auditor's input and his acknowledgement of staff members who implement the WA program. To clarify, there are two county departments involved. A Planner III in the Conservation Division of the Conservation, Development and Planning Department handles contract application, non-renewal and administrative duties. An Appraiser III in the Assessor Division of the Assessor-Recorder-County Clerk Department handles valuation issues and manages the data needed for the preparation of the subvention report for transmission to the County Executive Officer as the Authorized Representative for submission to the State. Both departments work together to promote and enhance the goals of the California Land Conservation (Williamson) Act.

On behalf of both departments we wish to thank Mr. Barr for the professional manner in which he conducted the audit.

Sincerely,



JOHN TUTEUR  
NAPA COUNTY ASSESSOR-RECORDER-COUNTY CLERK

Enclosures





# Minimum imputed Income

JOHN TUTEUR  
ASSESSOR

NAPA COUNTY

ASSESSOR

1127 FIRST ST ROOM 128 NAPA CA 94559-2931  
PHONE 707.253.4466 FAX 707.253.6171

TO: OWNERS INTERESTED IN THE WILLIAMSON ACT  
FROM: JOHN TUTEUR, NAPA COUNTY ASSESSOR  
RE: VALUATION OF WILLIAMSON ACT PROPERTIES

Under the terms of a California Land Conservation (Williamson) Act contract, the assessed value of the property restricted by contract is the lowest of three values: 1) the Proposition 13 factored base year value, or 2) the current market value (Proposition 8 "decline in value") or 3) the capitalization of agricultural income value (AIV). Annually our office calculates the AIV by dividing an income figure (which may be a minimum income stipulated to in your contract [see reverse] or the actual income) by a "capitalization (cap) rate" or in mathematical terms: VALUE = INCOME/CAP RATE.

The capitalization rate is composed of three factors, the cost of money which is a figure sent to all counties from Sacramento each year based on the five-year mean of the yield for long-term US government bonds [for 1998 the figure was 6.75%]; a risk factor which varies for grazing or vineyard, and a property tax component which is estimated at one per cent. THE FORMULA IS CAP RATE = COST/MONEY+RISK+TAX RATE

The following example is for illustration only:

NON-VINEYARD LAND ONLY		VINEYARD LAND	
Imputed Income	\$25.00/ac (100 - 199 acres)	Market rent	\$1,000/ac
Cost of money	6.75 %	Cost of Money	6.75 %
Risk	0.25 %	Risk	1.95 % (0.95% 1997 and prior)
Tax rate	1.00 %	Tax rate	1.00 %
Total cap rate	8.00 %	Total cap rate	9.70%
	$\$25.00/.0800 = \$312.50/ac$ value		$\$1,000.00/.0970 = \$10,309/ac$ value

The value of the vines themselves are calculated using the actual five-year average production of each block times the county-wide price per ton (3 year weighted average) of that variety [gross income] minus the county-wide pre-harvest expense/ac and harvest expense/ton minus an amortization figure for the non-living improvements minus a charge for the land rent to arrive at a net income. Using a present worth factor based on the cap rate times the net income projected for the remaining life of the vines, a value per acre is determined for each block of vines.

PLEASE CONTACT ASSESSOR JOHN TUTEUR IF THERE ARE ANY QUESTIONS.



# NAPA COUNTY

# ASSESSOR

JOHN TUTEUR  
Assessor

1195 THIRD STREET, ROOM 101 • NAPA, CALIFORNIA 94559-26  
AREA CODE 707/253-4466

1127 FIRST ST. R.M. 128  
NAPA, CA 94559-2931

From: Napa County Assessor John Tuteur

## RULE 13. Rental Income.

- (A) For purposes of calculating the value of the property covered by a Type H contract, the County, through its Assessor, shall apply either (1) the then actual annual rental income earned by the property, or (2) the fair rental income (also known as the market or economic rental income) which the property is susceptible of earning, whichever is greater.
- (B) In all events, the rental income to be used by the Assessor in subparagraph (A) above shall not be less than the amount hereinafter specified, based upon the acreage size of the parcel. The amounts so specified are designated the "minimum imputed income" for the purposes of these rules.

<u>Parcel Size (Acres)</u>	<u>Minimum Imputed Income (per acre or fraction thereof)</u>
From 11 to 20.99	\$175.00 per acre
21 to 49.99	\$ 80.00
50 to 99.99	\$ 50.00
100 to 199.99	\$ 25.00
200 to 399.99	\$ 15.00
400 and over	\$ 10.00

- (C) The "minimum imputed income" shall be subject to review by the Board of Supervisors of the County of Napa during each fifth year of the contract. As a consequence of such review, including a consideration of the trend of real estate sales and rental values, and general economic movements, the Board may determine to increase the "minimum imputed income" by an amount not to exceed ten percent (10%) for the next succeeding five (5) year period. Subsequent fifth-year anniversary reviews may be accomplished by the Board of Supervisors which may direct similar adjustments (to a maximum of ten percent (10%)), upward or downward, to said "minimum imputed income", but in no event shall such amount decline below those specified in paragraph (B) above.

APPENDIX 3



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 5/8/2018  
Agenda Placement: 10B

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** David Morrison - Director  
Planning, Building and Environmental Services  
**REPORT BY:** Donald Barrella, Planner III - 707-299-1338  
**SUBJECT:** California Land Conservation Act (aka Williamson Act) Program Workshop

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### RECOMMENDATION

Director of Planning, Building and Environmental Services and Assessor-Recorder-County Clerk request the following actions:

1. Receive the presentation regarding the California Land Conservation Act (CLCA) also known as the Williamson Act Program, including its administration, enforcement, policy, and tax assessment and revenue implications;
2. Provide direction as to whether staff should take one or more of the following actions:
  - a. Amend the Local Rules and/or Contract forms for Type A and/or Type H Williamson Act Agricultural Preserves and Agricultural Preserve contracts to address the issues raised by the elimination of Rule 13 in 2001; and
  - b. Investigate and take action regarding contracts that are not in compliance with current minimum requirements or contract terms.

### EXECUTIVE SUMMARY

Napa County's commitment to the preservation of agriculture is evident through the variety and breadth of local programs enacted over the past 50 years. These include implementation of the County's historic Agricultural Preserve (AP) Zoning District in 1968 (Ordinance No. 274), Measure A in 1980 (which limits the number of residential building permits issued annually in the unincorporated area), Measures J and P enacted in 1990 and 2008 respectively (which prohibit any land use change or intensification of non-agricultural land uses in agricultural zoning without prior voter approval), the Winery Definition Ordinance enacted in 1990 which strictly limits wineries and their accessory uses, the Right-to-Farm Ordinance also adopted in 1990, and adoption of the General Plan in 2008. It is also evident in the County's participation in the California Land Conservation Act of 1965 (CLCA), commonly referred to as the Williamson Act. Given the 50th anniversary of the Agricultural Preserve Zoning District

this year, staff is providing this overview of the CLCA for the Board's consideration and to receive direction of any changes in the administration of the CLCA that should be considered.

The primary intent of the CLCA program is to preserve the limited supply of agricultural land in the state by discouraging premature and unnecessary conversion to urban uses. The CLCA allows local jurisdictions to enter into contracts with landowners for the purpose of preserving agriculture. The County is able to limit the types of activities allowed on parcels covered by the contract, to agriculture and other uses deemed compatible with agriculture, for a rolling 10-year period. In return, property owners receive a reduction in property taxes depending on whether they are assessed at the lower of their factored Proposition 13 base year value or the restricted CLCA value.

### **PROCEDURAL REQUIREMENTS**

1. Staff report.
2. Public comments.
3. Discussion and possible direction to staff.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

**ENVIRONMENTAL DETERMINATION:** The proposed action is not a project as defined by 14 California Code of Regulations 15376 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

For the past half-century, Napa County has been in the forefront of agricultural preservation, both in California and in the nation. As a result of strong policies and consistent leadership, unincorporated Napa County is one of the few jurisdictions that has withstood intense economic pressure and remained almost exclusively agricultural, despite being located within one of the largest metropolitan areas in the United States. In the past, the cities and county have jointly worked to support this vision. The County has generally foregone new sales and transient occupancy tax opportunities, and has instead focused urban development into the five cities. In return, most of the cities have adopted Urban Limit Lines and have historically minimized annexations. Voters in both the cities and the county have voted on several proposals subject to Measure J (a 1990 voter-sponsored initiative that prohibits any land use change or intensification of non-agricultural land uses in agricultural zoning without prior voter approval), and in 2008 further extended those provisions to 2058 through Measure P.

As noted in the Visit Napa Valley surveys of people visiting Napa, the two main reasons for their travels are the wine-tasting and scenery, both of which are the responsibility of the County. It is this reason why the issue of the protection of farmland is so important. Agricultural preservation allows for the maintenance of a rural lifestyle for many, and allows us to continue our historical communities and traditions, but most importantly is that agriculture serves as the economic backbone for the nearly 40,000 families who live and work within Napa County. The California Land Conservation Act (CLCA) of 1965, commonly referred to as the Williamson Act, is one program within the array of policies used by the County to manage the unincorporated area for the greatest good.

The Term "Agricultural Preserve"

The term "Agricultural Preserve" appears in both local zoning as well as the CLCA and has a different meaning depending on the context it is used. The Napa County Agricultural Preserve (AP) Zoning District was implemented in 1968, and established agriculture as the highest and best use for lands primarily located within the Napa Valley. It increased the minimum parcel size for subdividing land within the AP District from 1-acre to 20-acres. In 1997 the minimum parcel size within the AP District was increased again to 40-acres. Initially the AP zoning district included approximately 23,000-acres. Today the AP Zoning District contains approximately 32,000-acres and includes lands within the Napa Valley, Wooden Valley and Gordon Valley.

A CLCA preserve refers to specific parcels where Williamson Act contracts are allowed. Before the County can enter into a contract with a property owner, the Board must first establish a CLCA preserve (as opposed to the zoning Agricultural Preserve) to define the geographic area within which the County is willing to enter into a contract with the property owner. Napa County has designed its rules to require that each property subject to contract constitutes its own CLCA preserve. Whether or not a parcel is eligible for a contract and associated CLCA preserve depends on its size and agricultural use as determined by the Planning Building Environmental Services (PBES) Department in cooperation with the Agricultural Commissioner. Under Government Code 51230, land within a designated CLCA preserve that is not otherwise agricultural land, shall be restricted by zoning including appropriate minimum parcel size.

CLCA Overview

The CLCA enables local governments to enter into voluntary contracts with private landowners for the purpose of restricting specific parcels of land to agricultural, open space, or recreational use. In return, landowners receive reduced property tax assessments based on the restricted uses rather than full market value. Local governments were partially reimbursed for the associated tax losses via an annual subvention payment provided for in the Open Space Subvention Act (OSSA) until 2009, when the State eliminated subvention funding for the CLCA.

Agricultural use is defined as the commercial production of agricultural commodities, which in general includes fruits, vegetables, grains, legumes, animal feed, seed crops, bio-fuel and oilseed crops, nursery stock, trees for lumber products, sod, livestock, poultry, horses for commercial sale, and other commodities accepted by local jurisdictions based on the recommendation of the Agricultural Commissioner. "Prime agricultural" means land that either:

1. Qualifies for rating as Class I or II in the Natural Resource Conservation Service (NRCS) Land use Capability Classifications; or Class III, if producing no less than \$200 an acre in annual gross income for three of the last five years;
2. Qualifies for rating 80 through 100 in the Storie Index Rating, a widely known and accepted method of rating soils for land use and productivity in California;
3. Supports livestock in the production of food or fiber and which has an annual carrying capacity of at least one animal per acre, as defined by the United States Department of Agriculture;
4. Planted with fruit or nut-bearing trees, vines, bushes, or crops with a non-bearing period of less than five years and which will return during the bearing period no less than \$200 per acre annual gross income; or
5. Other lands producing unprocessed agricultural plant products with an annual gross value of not less than \$200 per acre for three of the last five years.

In all cases, prime land must be irrigated to support agriculture on the premises. "Non-prime agricultural" lands are those lands that do not meet the definition of prime agricultural lands and are generally used for grazing and dry farming.

A Williamson Act contract is an enforceable contractual restriction. Failure to meet the terms and conditions will result in breach of contract. In the case of breach, the local jurisdiction may seek a court injunction to enforce the terms of the contract. The contract and associated CLCA preserve are governed by rules that specify the uses allowed. Generally, any commercial agricultural use will be permitted within a CLCA preserve. In addition, local jurisdictions have the flexibility to identify and permit other activities they deem compatible with agricultural use. Contracts have an initial term of 10 years, run with the land, and are binding on all successors. Unless a non-renewal is filed, the term automatically extends for an additional year each January 1. Thus a contract signed in 1969 still has a 10 year term as of January 1, 2017. Non-renewal can be initiated by either the land owner or the County. When a notice of non-renewal is served and recorded, the annual tax assessment gradually increases over nine years (unless the property owner protests a county-initiated non-renewal, in which case the increase in taxes takes place over the last five years of the non-renewal period), at which time the contract expires. Currently there are approximately 1,241-acres within the county that are in non-renewal. For examples of why non-renewal was pursued see the 'Program Compliance and Enforcement' section below.

Contracts can also be prematurely cancelled either by the landowner or the local jurisdiction. A landowner can petition the local jurisdiction to cancel a contract. The landowner must pay a cancellation fee equal to 12.5% of the unrestricted fair market value of the property. Remedies for material breach of contract may include penalties of 25% of the value of the affected land and 25% of the value of any improvements built in violation of the law, local regulations, or the contract.

A CLCA preserve defines the boundary of an area within which a city or county will enter into Williamson Act contracts with landowners. The boundary is designated by resolution of either the Board of Supervisors (Board) or City Council (Council) having jurisdiction. Only land that is located within a CLCA preserve is eligible for a Williamson Act contract. CLCA preserves are regulated by rules and restrictions designated in the resolution to ensure that the land within the preserve is maintained for agricultural or open space use. A CLCA preserve must consist of no less than 100 acres. Although Napa County currently requires a separate CLCA preserve for each parcel under contract, older CLCA preserves may include two or more parcels and/or owners. Smaller CLCA preserves may be established if a Board or Council determines that the unique characteristic of the agricultural enterprise in the area calls for smaller agricultural units and if the establishment of the CLCA preserve is consistent with the jurisdiction's General Plan.

In 1998, the California Legislature amended the law to allow Farmland Security Zones (FSZ), which are also referred to as Super Williamson Act parcels, where, in exchange for further property tax breaks, the land is committed to agricultural use for a 20-year period. A FSZ is an area created within a CLCA preserve by a board of supervisors upon request by a landowner or group of landowners. The land restricted by an FSZ contract is valued for property assessment purposes at 65% of its Williamson Act valuation or 65% of its Proposition 13 valuation, whichever is lower. Napa County does not currently participate in the FSZ program (25 counties currently allow for FSZ contracts).

Presently, approximately 15 million acres of California's 31.4 million acres of farm and ranch lands are restricted by Williamson Act contracts. Of California's 58 counties, 53 participate in the program; county's that do not participate include Del Norte, San Francisco, Inyo and Yuba. (Alpine and Los Angeles Counties have enacted the program but have no existing Williamson Act contracts.) In January of 2011, Imperial County exited the program by filing Notices of Non-renewal on all their Williamson Act Contracts (covering over 139,000-acres) as a result of the loss of subvention payments. To date no other county has chosen to exit the program. In total approximately 492,000-acres of contracted land statewide are reported to be in non-renewal.

#### The CLCA in Napa County:

The County has been participating in the Williamson Act program since 1969 as a tool for promoting agricultural land preservation consistent with the County's agricultural heritage and General Plan agricultural preservation

goals and policies.

- Goal AG/LU-1: Preserve existing agricultural land uses and planed of agriculture and related activities as the primary land use in Napa.
- Policy AG/LU-6: The County will continue to study tax assessment policies which recognize the long-term intent of agricultural zoning and the fact that agricultural land uses require a minimum of public expenditure for protection and servicing.
- Policy AG/LU-7: The County will research, evaluate, and pursue new approaches to ensure even stronger protections for the County's finite and irreplaceable agricultural resources. Approaches to be evaluated shall include implementation of a "Super Williamson Act" program, a conservation easement program or other permanent protection s, and program promoting the economic viability of agriculture.

Currently the County offers three types of contracts, Type A, Type C, and Type H. (There are no active Type C contracts.) Type A contracts are specific to the Agricultural Preserve (AP) zoning district. Type H contracts are for agricultural land that is not zoned AP. There are currently no active Type C contracts in Napa County. There are also Type E and F contracts, which are no longer offered, but remain in effect.

To qualify for the establishment of a CLCA preserve and associated contract, a parcel must meet a minimum size requirement and contain a bona fide agricultural use (or Agricultural commodity as defined by Government Code Section 51201.a). For prime agricultural land, if a parcel is either being zoned AP or meets the definition of Prime Agricultural Land within local rules, a minimum of 10 acres is required. For non-prime agricultural land (i.e. grazing land) a minimum 40-acre parcel is required.

Applications for new enrollees into the Act are taken in during the month of September. Qualification requirements (i.e. minimum parcel size and agricultural use) are confirmed as part of the application review process. Contracts for qualifying parcels are prepared and sent to owners for signature(s). Returned contracts are set to be heard by the Board at the first meeting in December at which time preserves and contracts are authorized and approved. Approved contracts are then recorded prior to January 1 so that they are enrolled prior to the January 1 lien date.

Parcels under contract cannot be subdivided during the term of a contract except to the extent permitted by Government Code Section 51230.1 (for immediate family members operating by Joint Management Agreement), or by Section 51230.2 (for agricultural labor housing).

Cancellation of a contract can only be initiated by the landowner. To approve a cancellation, the Board must make specific rigorous findings pursuant to Government Code Section 51282. Additionally, the landowner must pay a cancellation fee equal to 12.5% of the unrestricted fair market value of the property if cancellation is approved. During the past 49 years, there have only been four cancellations which totaled approximately two acres of land released from contract. The last cancellation of a contract was a partial cancellation done in 2005. To date no other petition to cancel a contract has been processed largely due to the findings the Board must be able to make as well as the required payment of a cancellation fee.

#### Financial Implications of the CLCA in Napa County

As of January 1, 2017 there are 848 parcels covered by CLCA contracts which contain 74,711-acres of land. Attachment A is a map showing the location of contracted parcels. Of these 848 parcels only 446 parcels receive any property tax benefit from the CLCA contract. The other 402 parcels are assessed at their Proposition 13 factored base year value. The total assessed value reduction for the 446 parcels receiving a benefit is \$547,945,026 which translates into approximately \$1,000,000 in reduced tax revenue for the Napa County General Fund. Attachment B shows the current and historical CLCA financial impacts.

The Open Space Subvention Act (QSSA) was enacted by the State in 1972, to provide for the partial replacement of

local property tax revenue foregone as a result of participating in the CLCA and other open space programs. The State eliminated subvention funding in the 2009-2010 Fiscal Year budget. In 2009, the last year the county received full subvention funding, the assessed value reduction for all contracted lands was \$538,450,249 or roughly \$1,000,000 in general fund revenue loss. In that year the subvention payment was approximately \$90,000.

#### Rule and Contract Updates:

Over the years the County has periodically updated local Williamson Act Rules and/or Contract Forms, to stay current with the State Statue and local standards and practices. A major update was done in April 2001 where the Local Preserve Rules and Contract forms were updated to the current rules and forms that are currently in place. This update was also required by amendments to the California Revenue and Taxation Code which changed the property lien date from March 1 to January 1, and included a general process calendar so that the Board would not need to review and adopt a processing calendar annually.

Other relevant updates to the Rules and/or Contract Forms include:

1. April, 2005: An update to all the contract forms due to an amendment to Government Code Section 51250, that identified certain structures that could constitute material breach of a contract as detailed in Section XVI of the current contract forms;
2. December, 2006: A Type C Preserve Rules and Contract form was created and offered, however at this time only one Type C has been issued and that contract has since been replaced with a standard Type A contract due to a lot line adjustment; and
3. June, 2008: Minor amendments were approved to achieve greater uniformity and clarity of the contract types including grammatical changes, and to reflect the definition of agriculture Napa County Code Section 18.08.040 as recently amended at that time to include Farm Management uses.

There is a discrepancy between the "Rules Governing the Administration of Agricultural Preserves on Lands Outside of the Agricultural Preserve Zoning Districts in Napa County (Type H Contract)" (Rules) and the contract form used for Type H contracts. Prior to 2001, the Rules included Rule 13 which provided a formula for calculating minimum imputed income in compliance with Section 423 of the California Revenue and Taxation Code. In 2001, Rule 13 was eliminated during the major update of the CLCA in 2001, referenced above. However, Section VIII of the Type H contract has continued to incorporate the terms and requirements that had been previously adopted in Rule 13. The County relied on the contract terms to ensure compliance with the California Revenue and Taxation Code. The County and the landowner execute a contract containing the definition of the minimum imputed income value, and that value was disclosed prior to the landowner's execution of the document. Staff is recommending that the contracts remain the same and that staff continues to use the income values established by former Rule 13 in Type H contracts.

#### Recent Board Review of the CLCA

In 2010, the Senate Budget and Fiscal Review Committee introduced Senate Bill (SB) 863. It essentially allowed Counties participating in the CLCA to voluntarily reduce the term of Williamson Act contracts from 10 years to 9 years, and for the Assessor to value the property, based on the revised contract term. Landowners with contracts would be provided a minimum 60-day notice before the County could take action, and would be offered the opportunity to non-renew the contract. This program would effectively raise property taxes on those owners who choose to remain under contract and under the new provisions. Of the 51 Counties that currently have active CLCA contracts, 11 (21%) have adopted the SB 863 provisions (Butte, Kings, Lassen, Madera, Mendocino, Merced, Shasta, Stanislaus, Sutter, Tulare, and Yolo).

On January 25, 2011, the Board of Supervisors reviewed the CLCA program, shortly after the elimination of the State subvention funds. At that time, the Assessor estimated that implementation of SB 863 would increase



property tax revenues by approximately \$500,000 between 2011 and 2016. The Board discussed the provisions of Senate Bill (SB) 863, acknowledged that non-renewal of Williamson Act contracts would have little immediate effect (because of the 9-year phase out), and emphasized that continued participation in the Williamson Act program is consistent with the County's general plan focus on agricultural preservation values. Following a presentation by the Assessor and PBES Director, the Board unanimously voted to continue the CLCA without any changes.

#### Program Compliance and Enforcement

From the inception of the program, the PBES Department has administered the CLCA in full compliance with the statutes and local rules. In 2005, the County received the Stewardship Award from the State Department of Conservation (DOC) for "...outstanding and long-term efforts to uphold and promote the California Land Conservation Act." In 2009-2010 the DOC audited the Napa County program. The audit contained two findings: 1) the Assessor Megabyte property tax system used the term "open space" when the correct term should have been "non-prime," and 2) the County should improve the agricultural activity survey questionnaire process identified in Section XXIV of the current contract forms. The DOC Audit Report is provided in Attachment C. The County's Response can be found in Attachment D.

With an almost 50 year history and many contracts having a similar duration, many contracts were signed prior to the imposition of current minimum standards. Since those standards were adopted, the County has not contracted parcels with Type A or Type H Contracts of less than 10-acres (for Prime Agricultural land) or less than 40 acres (for non-prime land).

Areas of non-compliance can be: minimum parcel size; consistent and complete reporting as required by the Assessor Division; absence of approved agricultural use and activities that could constitute a breach of the contract. Remedies could include County initiated non-renewal and county initiated legal action for breach of contract. Enforcement issues are addressed on an as needed basis by PBES and County Counsel. Because the uses allowed in the County's agricultural zoning districts (i.e. AP and AW districts) are mirrored in the Williamson Act contracts as allowed uses, in conjunction with the Winery Definition Ordinance, breaches associated with incompatible uses and/or structures on a contracted property are highly unlikely. No breaches of contract related to uses or structures have been identified through the history of the program. As noted above, the DOC 2009-2010 audit of the program did not identify any incompatible uses or structures on contracted parcels and found that the County maintains the necessary records to support the County's subvention report.

Presently there are approximately 157.4-acres of contracted land within six contracts in non-renewal that were initiated by the County due to qualification issues or as a result of failure of the contracted property owners to rescind and replace contract(s) due to a recorded lot line adjustment. In 2017 approximately 140-acres of contracted land was in non-renewal as initiated by the county, due to the failure of the owners to rescind and replace the previous contract(s), which were re-enrolled into the Act once the owners submitted their application.

Additionally, the County has worked with the Napa County Land Trust to non-renew contracts covering the Archer Taylor Preserve and the S.V. Wantrup Preserve (totaling 759-acres). The contracts covering these ranches were no longer necessary because they are covered by conservation easements with restrictions equal to or greater than the CLCA restrictions and are owned by a property tax exempt entity.

#### SUPPORTING DOCUMENTS

- A. Map of Williamson Act Contracts
- B. Impact of CLCA on Assessed Value
- C. DOC Division of Land Resource Protection Williamson Act Audit Findings

D . County Response to DOC Williamson Act Finding

CEO Recommendation: Approve

Reviewed By: Helene Franchi





**NAPA COUNTY GRAND JURY  
2017-2018**

**June 13, 2018**

**FINAL REPORT**

**Napa County Emergency Alerts  
Lacking During Fires**

## SUMMARY

In the late evening of October 8, 2017, hot, dry, 50 - 70 mph winds kicked up massive fires across the North Bay wine country. It soon became apparent that the fires ravaging Napa County, and especially Sonoma County, were going to be huge, devastating, and impossible to contain. The immediate focus, therefore, was to save lives.

Napa County and local fire and law enforcement personnel struggled to warn citizens of the three major wildfires that erupted almost simultaneously. As the fire took down power lines, communication cell sites, and transmission cables, most residents soon found themselves without cellphone, landline or Internet access.

While there were many stories of heroism on the part of these first responders, it became obvious that the alert systems and procedures for warning citizens and visitors of impending disaster were not sufficient, if they functioned at all. As a result, many people were confused, and unaware of the degree of danger, location and direction of the fires, and evacuation plans. The Grand Jury decided that this specific element of the fire disaster needed to be investigated.

What the Grand Jury found were several shortcomings in both the warning system that the County of Napa selected to use for such emergencies, as well as the staffing and procedures of emergency personnel responsible for the alerts at the time of the fire. Both issues were significantly exacerbated by the weather conditions, time of day, and the size and speed of the fire storms.

The Grand Jury recommends that the current alert system in use throughout the County, called Nixle, be augmented by a more reliable and ubiquitous platform used by other municipalities, called Wireless Emergency Alerts. In addition, the Grand Jury recommends other warning technologies such as sirens and drones should be investigated and deployed, if feasible, in the event of loss of wireless telecommunications infrastructure. Napa County needs an overlapping, reliable, and effective emergency alert system.

The Grand Jury further recommends that staffing for the Napa County Office of Emergency Services be increased to deal with the significant amount of planning, education, and training that goes into this critical function. A top priority should be to update and expand on existing written public alert plans within the appropriate jurisdictions' websites, as well as to develop a checklist of detailed procedures for deciding what warnings to issue, when, and in what form.

Despite these shortcomings, the Grand Jury acknowledges the professional, dedicated, and cohesive group of individuals - government, private citizens, and other organizations - who pulled together to fight the fire and help save lives. A special recognition goes to the owners and employees of KVON radio station for their long-hours of on-air public service in the face of this emergency.



Napa sunrise, October 12, 2017

Rich Pedroncelli/AP

**GLOSSARY**

CAL FIRE	California Department of Forestry and Fire Prevention
EOC	Emergency Operations Center
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
HMP	Hazard Mitigation Plan
iPAWS	Integrated Public Alert and Warning Systems
OES	Office of Emergency Services
WEA	Wireless Emergency Alerts

The words “notification,” “warning,” and “alert” often are used interchangeably. However, usually those words are used by public safety agencies and service providers in specific instances:

- **Notification** – A communication intended to inform recipients of a condition or event for which contingency plans are in place
- **Alert** - A communication intended to draw the attention of recipients to some previously unexpected or unknown condition or event

- **Warning** – A communication that encourages recipients to take immediate protective actions appropriate to some emergent hazard or threat

## **BACKGROUND**

Napa County residents, businesses, and visitors have been hard-hit by several natural disasters over the last three years, from a devastating earthquake in 2014, severe flooding due to torrential rainstorms in early 2017 and the recent fires in October 2017. It is certainly a credit to the people and public safety professionals in Napa that the community has not only collaborated extremely well to repair and rebuild and has also continued to grow and thrive.

In analyzing the recent fire disasters in Napa County, it is important to learn what went right, and what could have been done better. There are on-going investigations by CAL FIRE and others as to the causes of the fires, and strategies and tactics of emergency personnel in fighting them, but this is not the Grand Jury's focus. The Grand Jury received several letters from residents who lost everything in the fires this past fall, complaining about the lack of adequate warnings and responses. After extensive interviews and research, the Grand Jury has identified some areas that can be addressed immediately with respect to the County's disaster warning capabilities.

### **Emergency Alert Systems**

Historically, residents would be awakened by the sound of a loud bell or siren indicating that an emergency was taking place. In many communities now, cellphones begin to screech out audible warning tones and vibrate, signaling danger. Other methods range from low-tech options such as door-to-door or drive-by warnings, “phone trees” from neighbors or community associations, to advanced audible drones. There is certainly no one method that will work in every situation, and each has advantages and drawbacks. For example, loud, fixed, outdoor sirens do not provide specific information about an impending disaster, yet can function even when cell towers and power are knocked out. Conversely, cellphone-based warnings are easily disseminated, but can be unreliable if cell towers are compromised in a fire, such as Napa experienced in 2017.

Summarized below are the more widely-known and deployed alert systems in use today. Refer to Appendix A for a more complete list.

### **Government Systems**

1. At the national level, the Emergency Alert System (EAS) is a public warning system administered by the Federal Communications Commission that requires television and radio broadcasters, cable networks, and satellite broadcast providers to offer communication capabilities in the event of emergencies. The EAS allows the President of the United States, as well as state and local authorities, to interrupt all broadcasts in one or more counties with emergency messages.

The messages may be irrelevant to many, which may lead to alert fatigue. In addition, they don't reach people who are not watching TV or listening to broadcast media at that moment. The EAS is also very limited in its ability to target specific geographic areas within a county.

2. Alerts can also be targeted to cellphones in a county or counties using a newer version called Wireless Emergency Alerts (WEA), best known for Amber Alerts. A unique, loud tone and vibration are followed by a brief (90 character) text message. With the ubiquity of cell phone use, this gets warnings out to almost everyone. WEAs can be sent by state and local public safety officials, the National Weather Service, the National Center for Missing and Exploited Children, and the President of the United States.

Deficiencies include limited character length and lack of ability to target alerts to specific sub-county areas where the threat is located. WEA systems by definition use cell towers and transmission cables, which can be weak links in a fire zone.

Only one-third of counties in the U.S. are using the WEA alert system, administered by FEMA, due primarily to the inability to target specific areas within a county. Even though Sonoma County has the WEA system, the probability for "overshooting" was the reason they did not choose to send out alerts as the fire raged. County officials feared such alerts might have caused panic and traffic jams that may have hindered fire and law enforcement evacuation efforts.

When Napa County evaluated the WEA system, officials decided against purchasing it for the same reasons that Sonoma chose not to use it.

3. Fixed and mobile sirens have been used for years for various urban warnings. San Francisco still operates 109 outdoor sirens throughout the city, mounted on poles. Saint Helena also has old sirens, but due to many residents' complaints, their use is strictly limited. The major drawbacks to fixed sirens are a) people don't know what the loud blast may mean, and b) it would be prohibitively expensive to cover vast rural areas in fire-prone areas.

Subsequent to the Grand Jury interviews conducted early in 2018, Calistoga has announced that it is installing two such fixed stationary sirens.<sup>1</sup>

The case for installing two-tone, European-style mobile sirens in patrol cars can be made. Many of the new vehicles are equipped with sirens but need an inexpensive upgrade to enable loud two-tone sound. The Napa County Sheriff's department is pro-actively installing such sirens on its entire fleet. These sirens (not to be used for traffic infractions) will be instrumental in helping with evacuation warnings. This will be a coordinated effort with other law enforcement agencies and CAL FIRE so there is consistency across the County, according to the Sheriff.

4. Innovative technologies such as aerial drones have been used by local and state fire departments with great success, mostly for real-time situational awareness monitoring fires in hard to reach areas, or in poor weather conditions. Drones can now be equipped with sensors, infrared cameras that can peer through smoke, and even loud speakers to warn residents and

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<sup>1</sup> *Napa Valley Register*, "Once considered a nuisance, warning sirens may again return to Calistoga", Apr. 13, 2018



firefighters. In terms of surveillance, the drones can be safer to operate, quicker to deploy, more reliable, and far less expensive than helicopters.

While privacy concerns are voiced by some, the use of drones by fire departments with trained personnel, strict guidelines and coordination with the Federal Aviation Administration and other governmental agencies, can certainly save lives.<sup>2</sup>

### **Commercial Notification Services and Systems (such as Nixle)**

5. Napa County chose a fairly new delivery system, “Nixle”, to replace the outdated warning platform for issuing emergency messages. Nixle is an "opt-in" commercial offering requiring residents to sign up for the free service using their desired zip code. The Nixle system enables near real-time notification from local public agencies through text and email, voice messaging, social media, and the Nixle mobile app. It provides public safety and other advisories, such as law enforcement emergencies, road closures, missing persons, severe weather, fire alerts, etc. These alerts are more geographically-targeted than WEAs, although still not ideal.

Links to subscribe to Nixle alerts can be found on various County and city websites, including those of Napa County Emergency Services and the Sheriff’s Department.

Nixle messages are created and sent out by only a small number of authorized operators within the County. This poses a potential issue if these operators are in the midst of the emergency themselves or are otherwise unavailable to get the alerts out to the public in a timely manner. The fact that Nixle alerts are reliant on cell towers and aerial transmission lines means that, as with WEAs, the alerts will only be received if the cell technology is working.

6. Community-based notifications are usually a quick and reliable method to communicate with neighbors about emergencies. Here are just a few examples found in Napa County:

#### **\* FireWise and community Fire Safe Councils**

In response to the clear danger presented by a build-up of volatile fire fuels across Napa County, a group of senior fire professionals and concerned community leaders came together in 2004 to form Napa FireWise. This community-based fire awareness program was designed to educate the public and encourage individuals to be proactive in preparing their property for greater fire protection.

In 2005, with grants from the U.S. Forest Service and the Napa County Fire Department, Napa FireWise launched an aggressive public awareness program. The program consisted of using free wood-chipping services, defensible space instructions, plus community workshops and public relations campaigns. The core program continues today, in creating an atmosphere of sustained, shared responsibility, helping the community help itself through Fire Safe Councils.

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<sup>2</sup> *Los Angeles Times*, “L.A. Fire Department used drones for the first time during Skirball fire”, Dec. 14, 2017

**\* Local radio - KVON 1440 AM**

There is no official written public policy or procedure detailing how local radio stations should alert its listening audience to an impending disaster. Fortunately, the owners and operators of KVON stepped in and provided valuable information, real-time fire conditions, and, most importantly, offered a public forum for our elected officials to communicate with citizens and relayed important facts. When the power went out, and the public could no longer receive information from TV, the Internet or Nixle, it was old technology that saved the day. Residents got in their cars or dug out their battery-powered radios to tune in to KVON.

"Radio became what Nixle could not be for us because of the cellular system going down. Our ability to communicate was in jeopardy," said Belia Ramos, Napa County Board of Supervisors.<sup>3</sup>

**\* Social media - Next Door and FaceBook**

When power was on, and the Internet was available, these two popular applications offered up generally reliable information to many in the community.

**METHODOLOGY**

In conducting this investigation, the Grand Jury completed the following:

**Site tours:**

Napa County fire sites in and around Soda Canyon, Atlas Peak, Calistoga and Partrick Rd.  
Napa County Emergency Operations Center

**Interviews:**

KVON 1440 am radio station  
Napa County FireWise council representative  
Napa City Council member  
Calistoga Fire Department  
Napa County Fire Department  
Napa County Planning, Risk Management  
Napa County Office of Emergency Services  
Napa County Sheriff's Department

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<sup>3</sup> *Napa Valley Register*, "Napa County will do a post mortem of its wildfire response", Dec. 16, 2017

Several Napa homeowners who lost property in the fires

For documents and articles related to this investigation, please refer to the Bibliography section.

## **DISCUSSION**

### **The "Once in a Lifetime" Fire**

Dry "Diablo Winds" from the north and east were kicking up throughout Napa County in the evening of Sunday October 8, 2017. The previous winter's significant rainfall created an abundance of underbrush in the valley and hills, which were now tinder dry.

The National Weather Service began issuing "red flag" warnings several days earlier as conditions were becoming dangerous. The wind and temperature conditions were forecasted in the Napa Valley Register as well as local TV weather segments. Even though the weather conditions were foreseen, no one could have predicted the exact timing, location, intensity and speed of the eventual firestorm.

The well-known Diablo winds measured 30 - 40 miles per hour initially Sunday evening, but picked up with gusts up to 63 miles per hour a short while later (according to a CAL FIRE report). There were no Nixle warnings from any Napa County governmental entity regarding the "red flag" warnings before the fires started.

The first official report of fire on October 8 was approximately 9:40 pm where high winds were blowing hot embers onto the Silverado Resort and Spa, coming from Atlas Peak on the eastern hills of Napa Valley, according to the Napa Sheriff Department. A fire broke out in the grandstand on the golf course where the Safeway Open Golf tournament had just concluded. An ominous red glow was observed up Atlas Peak Rd., and a separate fire was seen across the valley to the west, near Partrick Rd.

At the same time, farther north, the Calistoga Fire Department was alerted to several electrical arc fires on Bennett Rd. and Highway 128. By the time the first truck arrived, the area was fully engulfed in flames, which were moving very quickly to the south west (which was to become the devastating Tubbs Fire in Santa Rosa). This was the situation that the fire department and emergency personnel had feared the most: simultaneous fires caused by dry conditions, low humidity and strong Diablo winds. It resulted in what the Napa County Fire Chief called a "once in a lifetime fire".

### **Bad Timing**

Compounding the problem was the fact that it was late at night, on a Sunday, when residents, visitors, emergency personnel, and almost everyone else were already turning in for the night. There were no initial Nixle/phone warnings or sirens. Residents were in a state of panic, scared and confused, as they fled the fast-approaching flames, trying also to call neighbors or knock on doors to warn them.

The first Nixle alert wasn't sent until 11:00 pm from the City of Napa, and the first from the Napa County Emergency Operations Center (EOC) came at 11:31 pm, a delay of over an hour and a half after the Alas Peak fire had been reported.

It was understandably very difficult for the OEC managers to get information from Central Dispatch and the Fire Department since this was a severe countywide fire emergency and things were chaotic, to say the least. However, a delay of this magnitude needs to be addressed.

Refer to Appendix B for a chronological list of Nixle Alerts during the initial fire outbreak

One resident of Atlas Peak who lost his home said, "It was just incredible, I've never seen anything like it before. It was like a scene from an apocalyptic movie. Atlas Peak was just blazing away." He stated that neither he nor other residents he knows on Atlas Peak and the northern Silverado community were alerted by any public safety agency of the fire, which was already on top of them.

As 911 calls started to pour in to the dispatch center, the Napa County Fire Chief immediately notified the County Office of Emergency Services (OES) manager to activate the EOC. The only two employees who have responsibility for managing the EOC reside in the Silverado Resort area, right in the path of the Atlas Peak fire. Both had to evacuate their families, and while one eventually drove down to the Sheriff's office to activate the EOC, the other attempted to get the facts of the fire's progress before sending out any broadcast alerts.

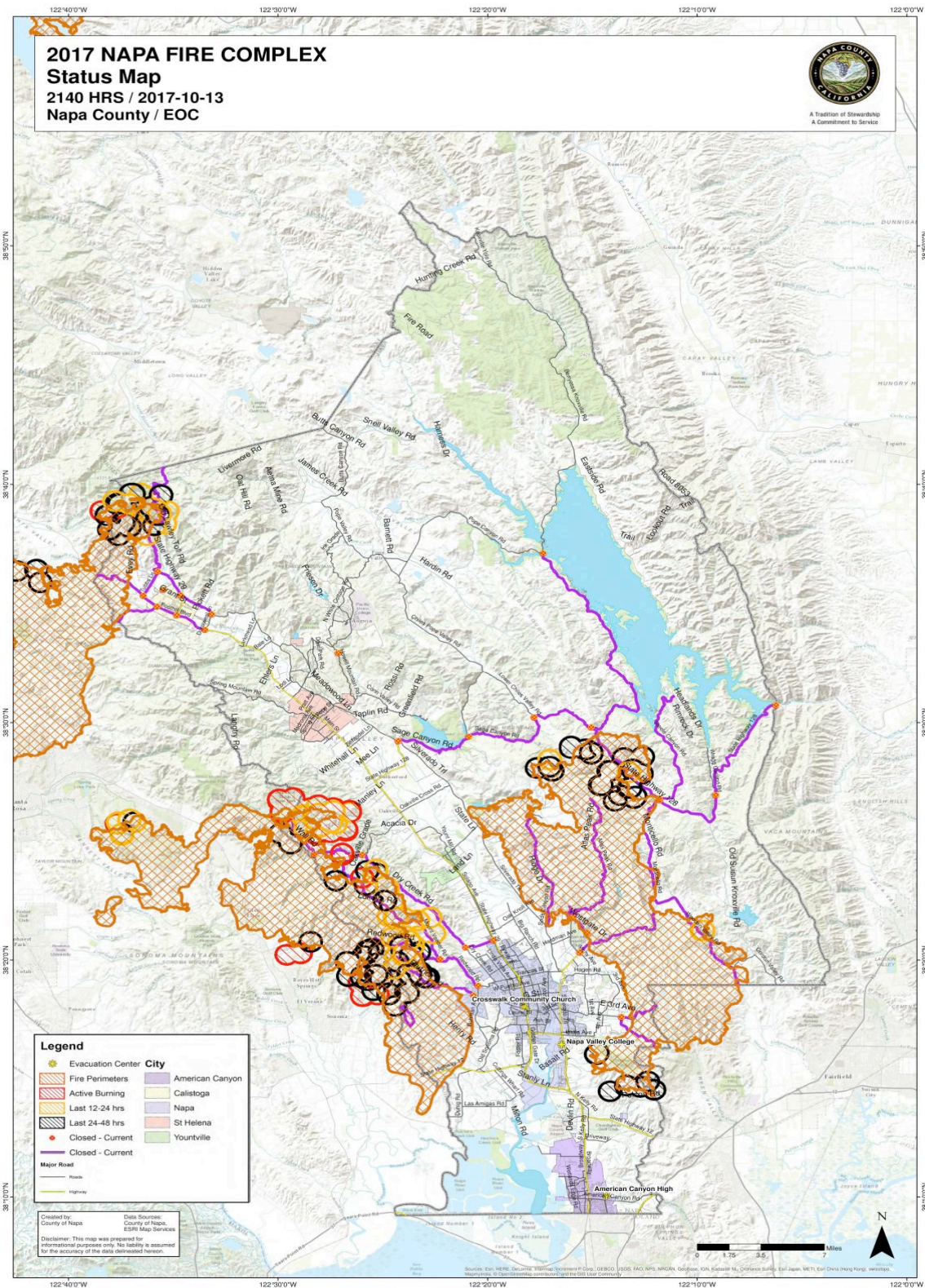
The County of Napa and its associated municipalities, as previously described, used Nixle as the primary alert system for emergencies. Only a few key government officials within the County are authorized to create and issue Nixle warnings. While it is important to have strict controls on who can issue such alerts, it is imperative that there be procedures in place to ensure the public is warned in a timely manner of emergencies that are life-threatening.

### **Nixle System Shortcomings**

Nixle can only be effective if the warnings are timely, specific, and if people have their cell phones on. There were several problems with the Nixle system during the October fires:

1. Approximately 20 percent of residents in the County were registered to receive Nixle alerts before the fires started
2. With many out-of-town visitors to the famous Napa wine country, and especially with the Safeway Open golf tournament wrapping up at Silverado Resort, non-residents were unlikely to have registered for the local Nixle
3. By design, the Nixle technology relies on cell towers and transmission lines, which were being engulfed in flames
4. Unlike some other alert systems, which generate a loud noise, many heavy sleepers may not have heard the Nixle text warning messages
5. Spanish messages were not issued initially, and then were poorly translated. Since many households in Napa speak only Spanish, this issue caused misunderstanding and frustration.

During the early hours of Monday October 9, power started to go out, and then cell service was hit-or-miss. So, without means to receive Nixle alerts or get any information, or audible sirens, people didn't know whether they were in a safe area or should evacuate.



## **WEA**

The major limitations to the WEA platform have now been addressed by the FCC. After a series of disasters in 2017, including hurricanes in Texas, Florida, and Puerto Rico, then followed by the destructive fires in Northern and Southern California, emergency operators and elected officials throughout the country were able to get the improvements they sought.

The FCC issued a rule in November 2017 that requires the major wireless carriers to implement upgrades to WEA as follows:

1. Increase the maximum length of a WEA from 90 characters to 360, and include links to phone numbers and websites
2. Transmit alerts to a geographical location that best approximates the area affected by the emergency, instead of countywide

Emergency operators are pushing for more improvements, such as using the cellphones' geo-location technology to target these WEAs more precisely.

As a result of these changes, and the aforementioned issues with Nixle, Napa County has just recently signed up for iPAWS, which is the platform from which WEAs are transmitted.

## **Conclusion**

None of these fires could have been slowed or put out due to the combination of variables that made them unstoppable: warm temperatures, extremely high winds, low humidity, mountainous terrain, and abundant fuel. According to CAL FIRE, this event was overwhelming, and there just were not enough resources. All told, the Tubbs, Atlas Peak, and the Partrick/Nunn's fires resulted in 1,051 structures lost or severely damaged, of which 611 were homes. In addition, 69,274 acres burned just in Napa County alone. Tragically, but miraculously, only 7 seven people died.

State Senator Bill Dodd (Napa), who was evacuated from his home during the fires, said the system's deficiencies need to be looked at closely.

"I think this warrants an investigation on why that happened," Dodd said. "We know because of climate change the fire season will be longer, so we need to build a robust system to handle the need. There are a lot of lessons we will learn from these events, from notification of people in their homes to mutual aid."<sup>4</sup>

The fact that so few died in the most ferocious fire of our time, certainly speaks highly of the dedicated, well-trained professionals in firefighting, law enforcement, emergency personnel, and partners around the state. The relationships they have established over the years ensured the best outcome in a terrible situation. Further, the Grand Jury recognizes the many brave citizens of

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<sup>4</sup> *San Francisco Chronicle*, "Lawmakers to investigate response to Wine Country fire," Nov. 20, 2017

Napa County who took it upon themselves to help their neighbors flee the fires and comfort those who were physically, financially, and emotionally affected.

## **FINDINGS**

The Napa County Grand Jury finds that:

F1 The fires that ravaged the North Bay during October 2017 were the most destructive in our history. Given the dry, ferocious winds, warm temperature, and our natural landscape, fires were predictable. Yet, there were no Nixle alerts preceding the fires.

F2 Reliance on the Nixle cellular communications platform proved to be insufficient in warning Napa County residents in a timely and accurate way. A small percentage of residents, and very few visitors, were registered, and for those in the danger areas, it became moot as the cell infrastructure quickly became inoperable.

F3 The understaffed OES personnel was initially hampered by the fire's fury and location, causing delay in issuing the first Nixle alert.

F4 While Napa County OES, the Sheriff's Department, the Fire Department, and other public safety agencies' have developed versions of disaster action and hazard mitigation plans, information about emergency alerts and warnings from these agencies is lacking.

F5 Since power, Internet and cell towers were lost in many areas of Napa County, local radio station KVON provided a valuable platform for fire updates, evacuation locations, and critical information from public officials.

F6 Proposed legislation in Sacramento is focused on numerous issues regarding disaster planning, including standardizing the approach to alerts since many disasters cross county lines.

F7 The professional, coordinated and extraordinary response by Napa County OES, law enforcement and fire personnel, focused on saving lives and livestock, resulted in minimal loss of life despite what the Napa County Fire Chief described as a "once in a lifetime" fire.

## **RECOMMENDATIONS**

As the Grand Jury investigated the disparate and inadequate warning systems and procedures in place prior to the outbreak of the fires, many ideas and plans have surfaced to address their lack of effectiveness. These systems and procedures have received serious attention, and more importantly, there have been pro-active steps to improve them at the city, County, state and federal levels. The Grand Jury applauds these efforts.

Nevertheless, the Grand Jury offers the following recommendations to document key elements of disaster planning as outlined in this investigation so that there will be an on-going and thorough discussion and action on improving the over-all protection of life and property in Napa County.

The Napa County Grand Jury recommends that:

R1. Nixle or other alerts should always be sent out when there is an official red flag weather warning. The Napa County OES manager should investigate automating this capability in certain severe situations. Additionally, when this type of warning goes out, there should be notification sent to the Emergency Operations Center team to be prepared to turn up the center in the event a fire or other disaster erupts. Both recommendations should be addressed by October 31, 2018.

R2. Napa County OES should lead the effort to order and deploy iPaws, which will enable use of Wireless Emergency Alerts, throughout Napa County now that the FCC has mandated that it be improved. Further, OES should develop a check list and detailed procedures to coordinate its use among the multiple alert platforms and operators by December 31, 2018.

R3. Napa County should investigate or commission plans to deploy where feasible other alert and warning technologies such as mobile and fixed sirens, aerial drones, etc. to reach more residents in the event of power or cellular communications loss of service by March 31, 2019.

R4. Increase staffing for Napa County Office of Emergency Services through grants or reallocation of budgets for emergency response planning, education and training, and to update and expand written alert and warning policies and procedures on the appropriate public websites by June 30, 2019.

R5. Napa County should negotiate an agreement, in conjunction with the County's municipalities, to formally incorporate plans to utilize local radio station KVON into existing and future Disaster and Hazard mitigation plans in the County by June 30, 2019.

## **REQUEST FOR RESPONSES**

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- Napa County Board of Supervisors: R3, R4, R5

## **INVITED RESPONSES**

Pursuant to Penal Code section 933.05, the Napa County Grand Jury invites responses as follows:

From the following individuals:

- Napa County Executive Officer: F1 – F4, R1, R2

## **DISCLAIMER**

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.



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## **APPENDIX A : Warning Delivery Methods and Technologies**

A variety of technologies are used for delivering warning messages in different areas of California, including:

**In-Person Notifications** – “Door-to-Door” notification, preferably by uniformed public safety personnel can be highly effective, especially when reaching people who are asleep or not reached by other warning media. These personnel should be trained in assisting individuals with access or functional needs and as well as people who speak languages other than English. This form of notification is labor intensive and time consuming.

**Loudspeakers and Public Address Systems** – Built-in audio announcement systems exist in many buildings and outdoor venues. These can be valuable provided a) the warning message is effectively written, and b) the amplified audio is intelligible. Public Address loudspeakers are sometimes attached to aircraft to notify people in more remote areas. Careful attention must be paid to the intelligibility of a message by those on the ground and keeping messages brief so that the entire message can be heard at a single point as the aircraft flies past. Loudspeakers systems can be very effective but constructing them to provide intelligible sound in complex acoustic environments can be technically demanding.

**Telephone Notification** – Many localities have a capacity for calling telephone numbers in an organizational database and playing an audio message. This is sometimes referred to as “reverse 9-1-1.” Such systems can be very effective when notifying a known list of recipients such as the members of a team, organization or student body, and ad-hoc notification lists often can be develop for a specified geographic area. The possibility of precise geographic targeting of messages has made such systems extremely popular, although the precision and completeness of such notifications has dwindled somewhat in recent years due to the growth in Voice-over-IP and wireless phone adoption. Telephone notification systems can provide extensive warning information, but the speed of calling large groups can be limited by the local telephone switching infrastructure or the availability of the person(s) initiating the calls.

**Public Sirens** – Often used for outdoor alerting, the effectiveness of sirens in penetrating well-insulated homes and buildings can be limited. Sirens can be programmed to emit multiple distinctive sounds, but associating individual sounds with particular meanings can be problematic, requiring intensive public education. Likewise, visitors from other areas may not recognize the meaning of a siren alert. Some siren systems are combined with a voice public address system, which can provide additional information once the siren sound attracts attention. However, reverberation among buildings and sound absorption by foliage can limit the intelligible range of voice messages. Sirens can be very effective for alerting people outdoors in parks or other public spaces.

**Traditional Radio and TV Broadcasts** – The national Emergency Alert System (EAS) enables the President of the United States, state and local authorities to interrupt all broadcasts in one or more counties with an emergency announcement. Participation in local use of EAS is voluntary

on the part of broadcasters. EAS messages are delivered to all listeners or viewers of stations serving a targeted county; many listeners may perceive alerts as irrelevant to their particular location. Satellite and cable TV carriers also participate in EAS, but their capacity to geographically target dissemination is even more limited. EAS can distribute warning messages over large areas very quickly but cannot reach people who are not watching or listening to broadcast media, particularly people who are asleep.

**Cable TV Override** – In addition to participation in the EAS, many cable TV systems have a provision by which local authorities can interrupt the audio, and sometimes the video, of all channels with emergency notifications. The strengths and weaknesses of these systems are similar to those for EAS. An additional consideration is the risk of blocking or otherwise limiting access to news and other valuable information.

**Wireless Alerts and Texting** – Alerts can be targeted to cellphones in a geographic area via the federal Wireless Emergency Alerts (WEA) system, best known for Amber Alerts. A unique alert tone and vibration is accompanied by a brief (90 character) text message. This is a relatively new system (implemented in 2012), the speed, text character limitation and precision of targeting of alerts has been under scrutiny by local emergency operators.

Alternatively, other non-government systems utilize Short Message Service (SMS) “text” messaging addressed to pre-determined wireless devices via a subscription or "opt-in" registration, such as **Nixle**. These alerts lack the unique sound and display of WEA alerts, and there is no mechanism for ensuring that a received “text” alert is authentic. WEA and other alerts to wireless devices can reach targeted audiences very quickly, but the limited length of WEA /SMS messages makes them most effective when used in concert with EAS or other systems.

**Internet-based Services** – A wide array of internet-based alerting systems have been devised, including alerting via Internet advertising channels. These tend to target pre-identified users of particular applications, although the advertising channel approach can theoretically target recipients geographically across a wide range of websites, games and other applications. Such systems are generally not inter-operable with each other, which limits the percentage of the at-risk population they can serve.

**Changeable Message Signs** – Remotely programmable text and graphic displays exist along many highways, at mass transit stations and other public areas. Many of these signs can only display very short texts. More sophisticated signs are deployed by advertising firms, which might also be used for public alerting. Specialized “kiosk” devices such as lottery displays also exist and might be used for public alerting. Such displays are effective at disseminating location-specific information but may not be seen by everyone at risk.

**Less Orthodox Alternatives** – Especially when addressing communities with well-developed cultural institutions it is wise to consider what alerting and communication channels are already in place and familiar and to integrate them into a comprehensive warning system. For example, existing church or community-center bells or foghorns may be useful in directing local people’s attention to a hazardous situation.

Source: California State Public Alert and Warning System Plan (2016)

## **APPENDIX B: Nixle Alerts from October 8, 2017 to October 10, 2017**

CITY OF NAPA: Crews on scene at major fire in Atlas Peak area. Stay clear of area. More info to follow. [www.nixle.us/9MHQR](http://www.nixle.us/9MHQR) **October 8, Sunday 2017** 11:00 pm

NAPA CO SHERIFF: Fire in Calistoga, Knights Valley to Tubbs Lane. Evacuations underway. Evacuation Center at Napa County Fairgrounds. [www.nixle.us/9MHRF](http://www.nixle.us/9MHRF) 11:31 pm

NAPA CO SHERIFF: FIRE. Silverado Trl Closed at Yountville Cross Road. All Soda Canyon Residents need to evacuate. Evacuation Center 2590 1st [www.nixle.us/9MHRM](http://www.nixle.us/9MHRM) 11:34 pm

CITY OF NAPA: Fire in Napa Co at Partrick Road, city resources on scene assisting. Evacuation center @ 2590 1st St. [www.nixle.us/9MHSM](http://www.nixle.us/9MHSM) **October 9, Monday 2017** 12:24 am NAPA CO

SHERIFF: Mandatory Evacuation of Circle Oaks West to Atlas Peak. Evacuate to the East and shelter at Calistoga Fairgrounds. [www.nixle.us/9MHST](http://www.nixle.us/9MHST) 12:30 am

NAPA CO SHERIFF: Mandatory Evacuation of Partrick Road. Evacuation Center/Shelter available at 2590 1st Street at Crosswalk Church. [www.nixle.us/9MHTK](http://www.nixle.us/9MHTK) 12:59 am

CITY OF NAPA: Mandatory Evacuation of Partrick Road. Evacuation Center/Shelter available at 2590 1st Street at Crosswalk Church. [www.nixle.us/9MHW5](http://www.nixle.us/9MHW5) 1:10 am

NAPA CO SHERIFF: Advisory Evacuations for Vichy Ave, Hagen Rd and all the Avenues. Evac Centers: 2590 1st Street at Crosswalk Church [www.nixle.us/9MHWP](http://www.nixle.us/9MHWP) 1:31 am

NAPA CO SHERIFF: Hwy 128 hard closure at Tubbs Lane. Mandatory Evacuation 128 west to the city of Santa Rosa. [www.nixle.us/9MHXD](http://www.nixle.us/9MHXD) 1:50 am

NAPA CO SHERIFF: Napa County Animal Shelter at 942 Hartle Ct will shelter dogs, cats, rabbits and other household animals. [www.nixle.us/9MHYK](http://www.nixle.us/9MHYK) 2:24 am

NAPA CO SHERIFF: Mandatory Evacuations: Old Sonoma Rd to Buhman Ave, Dealy Lane, Henry Rd, Coombsville Rd, Wild Horse Valley Rd, Carneros Inn. [www.nixle.us/9MJ2X](http://www.nixle.us/9MJ2X) 3:32 am

NAPA CO SHERIFF: Voluntary Evacuations Hwy 29 North of Tubbs Lane, Evacuation Center at Calistoga Fairgrounds. [www.nixle.us/9MJ3T](http://www.nixle.us/9MJ3T) 3:54 am

CITY OF NAPA: Montecito area of Napa is now being evacuated. Please evac to Crosswalk Church, 2590 1st St. More info to come. [www.nixle.us/9MJ43](http://www.nixle.us/9MJ43) 4:01 am

CITY OF NAPA: NEW evacuation center now open: Napa Valley College GYM. Crosswalk Church is full. [www.nixle.us/9MJ5F](http://www.nixle.us/9MJ5F) 4:36 am

NAPA CO SHERIFF: Montecito area now being evacuated. Crosswalk Church is full. New Evacuation Center at the Napa Valley College GYM. [www.nixle.us/9MJ5M](http://www.nixle.us/9MJ5M) 4:39 am

NAPA CO SHERIFF: Wooden Valley area is being evacuated to Solano Comm College Library parking lot, 4000 Suisun Valley Rd, Fairfield CA [www.nixle.us/9MJ7K](http://www.nixle.us/9MJ7K) 5:18 am





**NAPA COUNTY GRAND JURY  
2017-2018**

**Final Report  
May 29, 2018**

**The Measure H Watchdog Isn't Barking**

**NVUSD and Measure H**  
**May 29, 2018**

**SUMMARY**

In June of 2016, Napa County taxpayers narrowly approved Measure H, a ballot initiative authorizing the Napa Valley Unified School District (NVUSD) to issue \$269 million in school construction bonds. These funds make up just over half of the District’s \$505 million Facilities Master Plan, affecting thirty different District school sites. The Master Plan covers much-needed seismic upgrades to existing schools, the construction of three new campuses to replace schools on earthquake faults, and extensive security upgrades to most facilities. The funds also provide for a District-wide technology upgrade and a host of other improvements.

By state law, Measure H provided for an independent Citizens’ Oversight Committee (COC), known locally as the Citizens’ Bond Oversight Committee (BOC). The duties of the BOC, as outlined by state law and amended by NVUSD Board of Education bylaws, are strictly limited to informing the public, reviewing the District’s expenditure of bond funds, and issuing an Annual Report to the Board of Education.

By attending public meetings and interviewing key stakeholders, the 2017-2018 Napa County Grand Jury has learned that severe cost escalation is having a pronounced negative impact on the District’s Master Plan. Yet, even with the presence of the BOC, Napa County taxpayers are not being fully informed of the status of the plan and budget overruns. The jury finds this is due to a lack of transparency by the NVUSD and a lack of independent communication from the Bond Oversight Committee to the public.

The public deserves to know what is happening with their tax dollars, given that there is a high likelihood that taxpayers will be asked to approve an additional bond measure in order to fund all the projects in the Facilities Master Plan. The Grand Jury recommends the NVUSD BOE take action to strengthen the independence of the Bond Oversight Committee in order to improve transparency and increase the level of communication to the public about the state of these significant school construction projects.

**GLOSSARY**

BOC	Citizens’ Bond Oversight Committee
BOE	Napa Valley Unified School District Board of Education
Bond	A bond is a financial instrument of debt. General obligation bonds fund projects such as renovations of existing classrooms and facilities, as well as new construction of schools. Approval of a bond measure allows the district to sell bonds for renovation/replacement, additions, and technology upgrades. Bonds are sold over a multiple year period and similar to home loans (30 years); they represent a long-term general obligation (debt).

When voters pass a bond referendum, they agree to property-based taxes to repay the principal and interest on the bond. All property within the district—residential, commercial, agricultural, and industrial—is taxed to meet the loan repayment. When market conditions allow, the district can refinance previously issued bonds to save taxpayers money. California law allows districts to do this in order to achieve debt-service savings, thereby resulting in a reduction of taxes levied on taxpayers in the district. Bond measures also help the district apply and qualify for state matching facilities funding for new construction and modernization.

FMP	Facilities Master Plan (The NVUSD construction plan and budget) adopted in November 2015 by the BOE as a long-range plan through 2025.
Implementation Plan	A new document, created in May 2018, indicating which projects would be executed using Measure H bond funds once cost escalations have been taken into consideration.
Measure H	The \$269 million bond measure passed in Napa County in June 2016
NVUSD	Napa Valley Unified School District

## **BACKGROUND**

The 2017-2018 Napa County Grand Jury received several requests from citizens to investigate various aspects of the NVUSD, specifically dealing with operating budgets. After an initial round of interviews and some background research, the jury decided to focus an investigation on the status and progress of the Measure H bond issuance.

All public school districts in California are entitled to put bond issues on the ballot as local measures. Since 1978, these measures have been difficult to pass because Proposition 13 required a two-thirds supermajority (66.67 percent) of voters for approval. In November 2000, California voters passed Proposition 39 (also known as The School Facilities Local Vote Act of 2000), which initiated a state constitutional amendment (it amended Section 1, Article XIII A, and Section 18 of article XVI). The primary impact of Proposition 39 was to reduce the threshold required to pass local California school district bond issues from a two-thirds (66.67 percent) supermajority vote to a 55 percent supermajority vote.

Proposition 39 also requires school districts that approve Proposition-39 bonds to seat a Citizens' Oversight Committee (COC) to assure the community that bond funds are expended in the fashion outlined in the district's bond resolution. The COC must meet at least once a year and inform the public about the expenditure of bond revenues. The COC shall actively review and report on the proper expenditure of taxpayers' money for school construction. Key excerpts of Education Code Sections 15278, 15280, and 15282 are included in the Appendix section of this report.



In 2016, the Napa Valley Unified School District (NVUSD) placed a \$269 million bond initiative on the June ballot to give voters a chance to approve a funding proposal to provide seismic upgrades, new school construction, and other improvements to the aging District infrastructure. The specific uses and wording listed on the ballot initiative were:

To fix or replace earthquake damage, fire safety, plumbing/mechanical systems with funding that cannot be taken by the State, relocate or repair schools on earthquake faults, update aging electrical, plumbing, outdated heating/ventilation systems, provide flexible classrooms/labs for science and other core academics, update classrooms for vocational/career technology, repair, construct, acquire classrooms, sites, facilities/equipment, shall Napa Valley Unified School District issue \$269,000,000 in bonds, at legal rates, with independent oversight/audits, no money for administrators?<sup>1</sup>

The \$269 million bond fund was designed to make up just over half of the budget for the District's \$505 million Facilities Master Plan (FMP). The remaining \$236 million was to come from other revenue sources, including California State reimbursement funds for seismic upgrades, as well as State reimbursements under Proposition 51, a \$9 billion bond issue passed in 2016 for school construction and improvement projects. Additional funding would come from the sale of NVUSD school land and property, along with an anticipated \$40 million from developer fees that were attributed to specific residential projects slated to be built in the County.

The bond measure required a 55percent supermajority vote for approval. The initial ballot count on election night showed the bond measure did not receive 55percent of the vote, and had failed. It was not until absentee ballots were counted three weeks after election day that the initiative had enough votes to pass. The final tally was 55.99percent to 44.01percent. The measure exceeded the 55percent threshold by only 350 votes out of 35,000 cast.

Once passed, Measure H became the fourth school bond added to the property taxes of Napa County residents. Three of those are for the NVUSD (2002, 2006, and 2016) and one is for the Napa Valley College (2002).

On August 4, 2016, the NVUSD Board entered the election results in its official minutes. On October 6, 2016, the Board approved the Bond Measure Oversight Committee (BOC) and the District followed with a posting of the application on its website and advertised in the Napa Valley Register and American Canyon Eagle for community members. The NVUSD BOE formally established the BOC and adopted the NVUSD-Counsel-drafted bylaws on November 17, 2016, as required by Education Code §15278.

The NVUSD took immediate action to identify candidates to serve on the BOC, making sure the candidates fulfilled the specific criteria outlined in the bylaws. The NVUSD identified 11 BOC members in the fall of 2016, and the committee was reduced to ten by the first official meeting on December 7 of that year.

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<sup>1</sup> Text of Measure H Bond Initiative, June 2016. Link in Bibliography.

## **METHODOLOGY**

Interviews with four executive and staff members of the NVUSD

Interviews with two members of the Citizens' Bond Oversight Committee

Grand Jury attendance at five BOC meetings in 2017 and 2018

Grand Jury attendance at NVUSD State of the Schools meeting February 2, 2018

Grand Jury attendance at NVUSD BOE meeting May 3, 2018

Review of all online materials, minutes and plans at the NVUSD website

## **DISCUSSION**

### **The NVUSD Facilities Master Plan**

The District created a Facilities Master Plan (FMP) in early 2014, two years prior to the 2016 Bond Initiative. Created in conjunction with an architectural firm that has since gone out of business, it initially totaled more than \$1 billion. After the 2014 Napa earthquake, the District decided to re-work the original budget in order to reduce costs and address immediate seismic needs. The current \$505 million FMP emerged.

The \$505 million budget is divided into four parts, or "tiers," in descending order of priority. The District hoped the bond initiative could cover Tiers 1 and 2, which primarily include seismic upgrades, new school construction, and the technology upgrade. The District has referred to Tier 3 projects as "nice-to-haves." The final category, called "Other" on the FMP, is comprised of projects that will be paid through developer fees and "future funds."

With the passage of Measure H complete, the NVUSD embarked upon a comprehensive construction and remodeling project encompassing every one of the 30 school facilities in the District. Funds were also earmarked to provide a major technology overhaul District-wide, specifically to upgrade the aging phone system and convert it to VOIP (Voice Over Internet Protocol). To date the District has authorized the first two issuances of bonds for \$115 million and \$35 million, for a total of \$150 million. The remaining authorized bonds will be issued at a later date closer to when the funds will be required.

The \$505 million Master Plan the BOC has been monitoring is reflected in a spreadsheet included in the minutes from the BOC meetings. This spreadsheet includes \$211.2 million for Tier 1 projects, \$75.2 million for Tier 2, \$126.6 million for Tier 3, and \$92.0 million for Other.

### **The New NVUSD Implementation Plan**

On May 3, 2018, NVUSD Staff made a presentation to the NVUSD BOE on the District's new Implementation Plan. This plan acknowledges that the FMP is out of date and not reflective of

current costs and reimbursement rates. The 3-phase plan seeks to focus on those projects that can be executed with the currently authorized bond funds. Phase 1 totals \$269 million, and includes major construction and seismic projects at just ten District schools, subtotaling \$214 million. This phase also included \$35 million for a District-wide technology upgrade. The remaining \$20 million covers school safety, health and nutrition, and capital improvement management.

The District believes that the construction projects executed in Phase 1 will generate \$18 million in state reimbursements, so additional seismic and safety projects would be executed under Phase 2 once those monies are received. Phase 3 includes an additional \$49.5 million in seismic construction projects, but is currently unfunded.

District staff has made numerous references to the Implementation Plan as being “a living document” which will be continually revised as necessary. While the original FMP was almost 80 pages long and included school-by-school, tier-by-tier upgrade plans, the Implementation Plan is 4 pages long and does not contain any detail. It is not possible to know which pieces of the original plan are being retained and which have been re-prioritized or cut.

### **THE BOC’s Role is to Communicate**

The BOC has three main duties. As stated in Section 3.1 of the BOC bylaws, “The Committee shall inform the public concerning the District’s expenditure of bond proceeds.” The sole sources of information from the BOC are the meeting minutes (which are prepared by the NVUSD) and recordings of its meetings posted to the NVUSD website. As of this writing, the BOC has been convened for a year and a half and has yet to release any form of communication to the public about the expenditure of bond funds.

The BOC is also required to produce and present an Annual Report to the Board of Education summarizing the committee’s activities for the year and stating whether or not the District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution. The District has retained Chavan & Associates, LLP, an independent auditor to perform both performance and financial audits of the Measure H expenditures. The auditor makes annual presentations to the BOC and verifies the accuracy of the District’s processes. The BOC then has the opportunity to question the auditor about any part of his findings. These audits appear intended to form a large part of the BOC’s Annual Report to the BOE. To date the BOC has not issued the required Annual Report, although it is planning to release a report to the BOE on June 21, 2018. While a report will finally be issued, it will only cover the period of July 1, 2016 through June 30, 2017, and will not reflect any activities that have occurred during the past twelve months.

Although the creation of subcommittees for any purpose is prohibited by Section 5.8(c) of the bylaws, the BOC established an Annual Report subcommittee at the December 2017 BOC meeting. This subcommittee worked together to prepare the annual report draft, which was discussed by the entire BOC at the May 2018 meeting.

The committee's third and final specified duty is to review the District's expenditure of bond proceeds. The committee is responsible for ensuring that bond proceeds are expended only for the purposes set forth in Measure H and that no bond proceeds are used for teacher or administrative salaries or other operating expenses.

Section 6.1 of the bylaws requires the BOC to meet at least once per year but not more than quarterly to discharge its duties. Despite this limitation, the BOC met six times in 2017 and is planning six meetings in 2018. Meetings of the BOC take place at District offices with members of the NVUSD in attendance, and the average meeting lasts more than two hours.

Minutes from early BOC meetings, as well as interviews with BOC members, indicate that the BOC received minimal training at the beginning of their term. Organizations including the 21<sup>st</sup> Century School Fund and the California League of Bond Oversight Committees have produced best practice documents (see Bibliography), which give guidance to Citizens' Oversight Committees. The NVUSD BOC would be well-served to gain access to this information and to receive additional training from these organizations in order to better perform its duties as an independent oversight committee.

### **The BOC's Responsibilities Are Expressly Limited**

The BOC bylaws (see complete text in the Bibliography section of this report) stipulate that the BOC shall have no jurisdiction over any contracts, bids, contractor selection, change orders, expenditures of bond funds, approval of plans or schedules, selection of auditors, and much more. All of those responsibilities are reserved expressly for the BOE or Superintendent.

Section 5.4 of the BOC bylaws specifies that members of the BOC shall be appointed to two (2) year terms and may serve no more than three (3) consecutive terms. This bylaw also mandates that at the committee's first meeting, members will draw lots or otherwise select a minimum of two members to serve for an initial one (1) year term with the remaining members selected for an initial two (2) year term. This process would ensure a BOC with staggered terms and avoid the possibility of a completely new slate of committee members after just two years. Despite this requirement of the bylaws, the District did not follow the proscribed procedure to stagger the committee at the first meeting.

This term issue was finally addressed at the May 2018 BOC meeting, when six members of the current BOC offered to remain for a second term. The District is already working to recruit additional new members for the BOC beginning in the fall of 2018. The BOC and NVUSD staff both expressed hope that the new committee would number at least 12 members.

## The Public is Not Being Informed of the Serious Cost Escalations Impacting the Master Plan

At each BOC meeting, District staff reviews recent construction activity at each NVUSD facility. Discussion includes budget updates, new bids awarded, progress updates, and status of state reimbursements, among other items.

The Grand Jury attended BOC meetings in September and December of 2017, as well as January, March, and May of 2018. At each of these meetings, the District provided information to the BOC that indicated that the District was experiencing significant cost escalations on many of the projects. Specific examples include:

- December 2017 – District’s lead architect submitted a letter explaining the cost escalations the District was experiencing (as much as 30percent) were common throughout Northern California due to high levels of construction and a scarcity of construction resources.
  - This information was not included in the original meeting minutes reviewed in January 2018. At the insistence of one BOC member, the District agreed to revise the minutes. The revised minutes, which were approved in March 2018, make but a brief mention of cost escalations without mentioning the 30percent overrun. The architect’s letter has been added as an attachment to these minutes.
- December 2017 -- District reported the initial low bid on a project awarded in spring 2017 was more than three times the \$400,000 District estimate. The District then revised its estimate to \$1.6 million and put the project out for bid again. This time the lowest bid was \$2.2 million, and was awarded. Change orders increased the contract value to \$2.4 million. The project was now *six times* the original estimate of \$400,000.
  - This information is not included in the meeting minutes. In documents distributed to the BOC, the District referred to the project being only 50percent over budget (comparing the low/winning bid of \$2.4 million to the revised estimate of \$1.6 million), ignoring the original FMP estimate of \$400,000. In truth, the project is 500percent over budget.
- January 2018 – District’s detailed performance review of the El Centro/Salvador School Consolidation project indicated \$24.5 million in bids had been awarded to date for parts of the project. Compared to the original FMP budget of \$18.6 million for the entire project, this meant the project would be going at least 33percent over budget. Staff could not explain the cause of the overrun.
  - Although the BOC expressed concern during the meeting about the significant overrun, the minutes from this meeting contained only this recap:

- “Detail review of Measure H project El Centro. Committee was able to ask questions of staff as they pertain to the project, process or financial.”

At the January and March 2018 BOC meetings, when the severity of the cost overruns was discussed, BOC members asked what recourse the District has if the funds run out before all the projects are completed. The District answered that no projects would be cancelled; they would instead be reprioritized or moved to the bottom of the list until new funds could be found or a new bond initiative was passed. On at least two other occasions NVUSD staff has mentioned to the Grand Jury that there is a high probability that the District will need to float another bond initiative with the taxpayers.

### **Meeting Minutes Do Not Reflect Details of Each Meeting**

At the March 2018 BOC meeting, a construction manager from the District announced that the cost of steel would be increasing by 20percent beginning in April due to recently announced tariffs. At a separate point in the meeting, when cost escalations were being discussed, the same construction manager announced that overall construction costs were “increasing by 20percent year-over-year.”

At the May 2018 BOC meeting, a BOC member voiced his displeasure that the minutes from the March meeting did not accurately reflect the content discussed at that meeting. He went on to say that this was a problem with all meeting minutes, not just those from March. His concern was that specific cost information discussed at the meetings was not captured in the minutes, which made it hard for the annual report committee to use the minutes to help shape their report.

This generated a discussion about how the minutes are kept for BOC meetings. The NVUSD staff currently produces both the agenda and the minutes for BOC meetings. By statute, the District is required to provide the BOC with technical and administrative assistance to the committee in furtherance of its purpose (see §15280(a) in the Appendix.) However, this does not require the NVUSD staff to actually prepare the minutes. The BOC could do this if it so desired. Discussion went on to include the fact that the minutes only need, according to Robert’s Rules of Order, to reflect actions taken by the committee and are not intended to be transcripts of the proceedings. The BOC was reminded by NVUSD staff that audio recordings of each meeting are made and posted on the NVUSD website for review by anyone in the community.

In the end, the BOC agreed, in an effort to be more transparent, that the Chairman would ask members at the end of each meeting which specific items of discussion from that meeting should be included in the minutes. However, at the end of this meeting, this was not done.

The Napa County Grand Jury shares the frustrations of some BOC members that important information about cost overruns, in particular, is not being shared with the general public, either in the minutes or anywhere else. However, the jury believes it is the BOC’s express duty and obligation to find ways to communicate this information to the public, whether through meeting minutes, the annual report, an online meeting recap, or any other such communications vehicle they create.

## **District Not Counting on State Reimbursements**

At the January 2018 meeting, the District announced it had applied for reimbursement from the State of California's Proposition 51 Bond Fund for Napa's Stone Bridge and River Schools. At the March meeting, the District announced that the reimbursement funds had been denied. The District announced that it will continue applying for state matching funds, particularly for seismic upgrades, but cautioned that it may take up to five years to receive these funds, if they are even approved.

At the May 2018 BOE Study Session, and again at the May 2018 BOC meeting, District staff discussed the difficulties of being reimbursed by the state. Although the NVUSD has projects that qualify for state funds, the state is currently handling reimbursement requests that date back many years. The District feels that the current governor of California is reluctant to release funds for school reimbursement, even though Proposition 51 passed, making \$9 billion available. At the rate those monies are being doled out it will take many years for NVUSD to see any reimbursements.

In addition to attending the BOC meetings, the Grand Jury also attended the NVUSD's "State of the Schools" breakfast meeting on February 2, 2018 at the Napa Elks Lodge. The jury was interested to hear if the District would address Measure H and provide a construction and/or budget update. Although the District used the occasion to cite a number of positive accomplishments and a number of ongoing challenges, the state of the Measure H project and associated cost escalations were not among them.

## **FINDINGS**

The Napa County Grand Jury finds that:

- F1. The \$505 million Facilities Master Plan and budget, which were created in 2014, are outdated and underfunded, and do not reflect 2018 (or later) construction costs.
- F2. Construction costs for many projects in the NVUSD Facilities Master Plan are running 30-500percent higher than the District originally estimated.
- F3. The District's ability to fund all the projects in the Facilities Master Plan is at further risk because the State of California has not disbursed District-anticipated funds and has not guaranteed it will do so.
- F4. The new \$346 million "Implementation Plan" introduced by NVUSD staff in May 2018, does not clearly identify which items from the original FMP are being reprioritized.

- F5. The Bylaws of the Bond Oversight Committee have not been followed as written with regard to the creation of subcommittees, the creation of staggered terms, and the frequency of meetings.
- F6. Neither the NVUSD nor the citizens' Bond Oversight Committee are fully informing Napa County taxpayers on a timely basis of the status of Measure H bond expenditures or cost escalations.
- F7. By not issuing the required annual report nor communicating with the public in any way during its first 18 months, the Bond Oversight Committee has not lived up to its obligations to the taxpayers of Napa County.
- F8. There is a high likelihood that Napa County taxpayers will be asked to fund yet another bond measure in order to complete the many FMP projects that will not be completed under the Measure H bond issuance.

## **RECOMMENDATIONS**

The Napa County Grand Jury recommends that:

- R1. The Bond Oversight Committee fulfill its duty to inform the public about the expenditure of Measure H bond funds by communicating to the public at least twice annually about Measure H project status and costs.
- R2. The Board of Education strengthen the independence of the Bond Oversight Committee by revising the BOC bylaws no later than August 31, 2018 in order to allow the creation of subcommittees by the BOC, and also to establish a set meeting frequency.
- R3. The NVUSD Staff revise the original \$505 million Facilities Master Plan to reflect which projects will be executed through the new Implementation Plan, and which projects will be deferred until new funds become available. This revised FMP should be posted to the NVUSD website no later than October 31, 2018, and kept current.
- R4. The NVUSD Board of Education provide training to the BOC from organizations such as the 21<sup>st</sup> Century School Fund or the California League of Bond Oversight Committees so that the BOC has access to best practices for citizen oversight of public school construction programs. This access to training should take place commensurate with the seating of the next committee in the fall of 2018.



## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Napa County Grand Jury requests responses as follows:

From the following governing bodies:

- NVUSD Board of Education (F1-F6 and F8; R2-R4).

## INVITED RESPONSES

Pursuant to Penal Code section 933.05, the Napa County Grand Jury invites responses as follows:

- Measure H Citizens' Bond Oversight Committee (F5, F6, F7, and F8, and R1, R2 and R4.)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

This report was issued by the 2017-2018 Napa County Grand Jury with the exception of a juror who is a former employee of the NVUSD. This Grand Juror was excluded from all parts of the investigation, including interviews, deliberations, and the writing and approval of this report.

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## APPENDIX

Key excerpts of California Education Code Sections 15278, 15280, and 15282 as they relate to a Citizens' Oversight Committee include the following provisions:

§15278. (a) If a bond measure authorized pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution and subdivision (b) of Section 18 of Article XVI of the California Constitution is approved, the governing board of the school district or community college shall establish and appoint members to an independent citizens' oversight committee, pursuant to Section 15282, within 60 days of the date that the governing board enters the election results on its minutes pursuant to Section 15274.

(b) The purpose of the citizens' oversight committee shall be to inform the public concerning the expenditure of bond revenues. The citizens' oversight committee shall actively review and report on the proper expenditure of taxpayers' money for school construction. The citizens' oversight committee shall advise the public as to whether a school district or community college district is in compliance with the requirements of paragraph (3) of subdivision (b) of SDCCD: Proposition 39 Citizens' Bond Oversight Committee Requirements Section 1 of Article XIII A of the California Constitution. The citizens' oversight committee shall convene to provide oversight for, but not be limited to, both of the following:

(1) Ensuring that bond revenues are expended only for the purposes described in paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(2) Ensuring that, as prohibited by subparagraph (A) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, no funds are used for any teacher or administrative salaries or other school operating expenses.

(c) In furtherance of its purpose, the citizens' oversight committee may engage in any of the following activities:

(1) Receiving and reviewing copies of the annual, independent performance audit required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(2) Receiving and reviewing copies of the annual, independent financial audit required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(3) Inspecting school facilities and grounds to ensure that bond revenues are expended in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(4) Receiving and reviewing copies of any deferred maintenance proposals or plans developed by a school district or community college district, including any reports required by Section 17584.1.

(5) Reviewing efforts by the school district or community college district to maximize bond revenues by implementing cost-saving measures, including, but not limited to, all of the following:

(A) Mechanisms designed to reduce the costs of professional fees.

(B) Mechanisms designed to reduce the costs of site preparation.

(C) Recommendations regarding the joint use of core facilities.

(D) Mechanisms designed to reduce costs by incorporating efficiencies in school site design.

(E) Recommendations regarding the use of cost-effective and efficient reusable facility plans.

§15280. (a) The governing board of the district shall, without expending bond funds, provide the citizens' oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the citizens' oversight committee.

(b) All committee proceedings shall be open to the public and notice to the public shall be provided in the same manner as the proceedings of the governing board. The citizens' oversight committee shall issue regular reports on the results of its activities. A report shall be issued at least once a year. Minutes of the proceedings of the citizens' oversight committee and all documents received and reports issued shall be a matter of public record and be made available on an Internet website maintained by the governing board.

§15282. (a) The citizens' oversight committee shall consist of at least seven members to serve for a term of two years without compensation and for no more than three consecutive terms. While consisting of a minimum of at least seven members, the citizens' oversight committee shall be comprised, as follows:

(1) One member shall be active in a business organization representing the business community located within the district.

(2) One member shall be active in a senior citizens' organization.

(3) One member shall be active in a bona fide taxpayers' organization.

(4) For a school district, one member shall be the parent or guardian of a child enrolled in the district.

(5) For a school district, one member shall be both a parent or guardian of a child enrolled in the district and active in a parent-teacher organization, such as the Parent Teacher Association or school site council.

(b) No employee or official of the district shall be appointed to the citizens' oversight committee. No vendor, contractor, or consultant of the district shall be appointed to the citizens' oversight committee. Members of the citizens' oversight committee shall, pursuant to Sections 35233 and 72533, abide by the prohibitions contained in Article 4 (commencing with Section 1090) and Article 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code.



**NAPA COUNTY GRAND JURY  
2017-2018**

**June 18, 2018**

**FINAL REPORT**

**Napa County Climate Action Plan-  
A Work in Progress**

# Napa County Climate Action Plan- A Work in Progress

June 18, 2018

## SUMMARY

Napa County began its efforts to deal with climate change factors (specifically heat-trapping carbon dioxide [CO<sub>2</sub>] gas) in 2007. To comply with state mandated greenhouse gas (GHG) emission reductions, the County government undertook development of a Climate Action Plan (CAP) the following year. Despite ongoing efforts to finalize and adopt a CAP, today the County remains without such plan.

Preparation and adoption of a CAP was included as an action item in the Napa County General Plan, adopted in June of 2008. The CAP the County is drafting will cover only the unincorporated areas of the County, excluding the City of Napa, American Canyon, Yountville, St. Helena, and Calistoga. These five incorporated areas of Napa County contribute approximately 50 percent of the County's GHG emissions. Instead of a coordinated countywide effort, the municipalities and districts within Napa County are each working independently to address GHG emissions, with some taking only municipal operations into account.

While recognizing the limits of the County's governance authority over the other Napa entities, the Grand Jury concludes that a collaborative effort by all County entities is an approach that reflects the consensus view of the interviewees. A precedent for such cooperation is the Napa Operational Area Hazard Mitigation Plan adopted in 2004.

Currently there is no County measurement or reporting of GHG emissions for the 500 + wineries operating throughout the County. When a winery (or other) project requires an Environmental Impact Report (EIR), emissions calculations are performed, but are based on estimates, with no ongoing reporting and monitoring of actual emissions to ensure compliance with BAAQMD emissions thresholds. As a significant commercial industry within the County, the impact of winery operations GHG emissions should be measured, reported, and included in GHG emissions reduction targets.

The Grand Jury recommends that the Napa County CAP account for all the unincorporated County's GHG emissions sources. Furthermore, that the County government should take the lead to coordinate countywide efforts to mitigate climate change effects.

## GLOSSARY (ACRONYMS)

AB	Assembly Bill
BAAQMD	Bay Area Air Quality Management District
BOS	(Napa County) Board of Supervisors
CAP	(Napa County) Climate Action Plan

CARB	California Air Resources Board
CEQ	(President’s) Council on Environmental Quality
CEQA	California Environmental Quality Act
CFCs	Chlorofluorocarbons
CH <sub>4</sub>	Methane
CO <sub>2</sub>	Carbon Dioxide
COUNTY (the)	Napa County
EIR	Environmental Impact Report
GHG	Greenhouse Gas
MTCO <sub>2</sub> e	Metric Tons of Carbon Dioxide Equivalent
NCTPA	Napa County Transportation and Planning Agency (now Napa Valley Transportation Authority- NVTA)
NEPA	National Environmental Policy Act
SB	Senate Bill
SLCP	Short-lived Climate Pollutant

## BACKGROUND

Immediate and significant health, environmental, economic, and national security (“The effect of a changing climate is one of a variety of threats and risks . . .”<sup>1</sup>) dangers exist due to the increase in global temperatures. Greenhouse gas emissions are an increasing health concern and are believed by climate scientists to be the leading cause of climate change.<sup>2</sup> They argue that substantial reductions in human-caused GHG emissions are needed by the mid-21<sup>st</sup> century to prevent likely catastrophic planetary consequences.

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<sup>1</sup><https://www.militarytimes.com/news/your-military/2017/09/12/pentagon-is-still-preparing-for-global-warming-even-though-Trump-said-to-stop>

<sup>2</sup><https://climate.nasa.gov/scientific-consensus/>



In the United States, the federal government and the state of California led the charge to study and mitigate the effects of climate change beginning in 1970. The state effort gained momentum in 2005 when Governor Schwarzenegger signed Executive Order S-3-05 setting GHG emissions reduction targets for the state and outlining the responsibilities of state agencies. The legislature followed in 2006 with passage of the California Global Warming Solutions Act (AB 32) with the goal of reducing state GHG emissions to year-1990 levels by 2020. The Scoping Plan (specifics on the scope of the project and how it will be managed) that accompanied the Act recognized that local governments would be essential partners in achieving that goal. The County of Napa responded by including a climate change mitigation “action item” in its 2008 General Plan Update. It is worth noting again that the General Plan covers only the unincorporated areas within the County boundaries.

The long-stalled and increasingly costly CAP has been a work in progress since that time. The County must address a broad array of evolving issues and public concerns, while dealing with developments outside of its control. These challenges have been time-consuming and have delayed finalizing the CAP.

Napa residents and local environmental groups are concerned about Napa County’s delay in adopting a CAP to address GHG emission reductions. For this reason the Grand Jury elected to investigate the status and content of the CAP.

## **METHODOLOGY**

### **Interviews with government entities:**

- American Canyon city official
- City of Napa Planning Department staff
- Napa County Planning, Building and Environmental Services (Planning Department) staff
- Napa County Supervisor
- St. Helena City Official

### **Interviews with public interest groups:**

- Napa Climate Now! representative
- Napa County Farm Bureau representative
- Napa Valley Vintners representative
- Sierra Club Napa Group representative
- Watershed Information and Conservation Council representative

- Winegrowers of Napa County representative

**Other:**

- Review of pertinent federal, state and county documents and local newspaper reporting
- Review of climate science peer review papers and scholarly articles.

## **DISCUSSION**

### **Climate Change Policy History**

Initially using the term “global warming,” the federal government established the blueprint for dealing with climate change via the National Environmental Policy Act (NEPA), which was signed into law in 1970. It required federal agencies to assess the environmental effects of their proposed actions prior to making decisions.

The NEPA process mandates that agencies evaluate the environmental and related social and economic effects of their proposed actions. The President’s Council on Environmental Quality (CEQ) was established by NEPA and its mandate was expanded by an executive order from President Nixon.

Later in 1970, the state of California followed the federal government’s lead and approved the California Environmental Quality Act (CEQA). The Governor’s Office of Planning and Research prepares and develops amendments to the CEQA guidelines for certification and adoption. The most recent guidelines were adopted in November 2017.

CEQA requires state and local agencies to identify the significant environmental impacts of their actions and (taking it further than NEPA) to avoid or mitigate those impacts, if feasible. It makes environmental protection a mandatory part of every California state and local agency’s decision-making process for both public and private projects as defined in the act.

The state of California addressed the increased threat posed by climate change by passing AB 32. The bill calls for a GHG emissions reduction goal for 2020 that is approximately 15 percent below emissions expected under a business as usual scenario. This bill was “the first program in the country to take a comprehensive, long-term approach to addressing climate change,” doing so in a manner that “aims to improve the environment and natural resources while maintaining a robust economy.”<sup>3</sup> In 2016, Senate Bill (SB) 32—which updated the California Global Warming Solutions Act of 2006—was enacted and established a new, expanded emissions reduction target of 40 percent below 1990 levels by the year 2030.

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<sup>3</sup>[www.arb.ca.gov/cc/ab32/ab32.html](http://www.arb.ca.gov/cc/ab32/ab32.html)

**Napa County’s Climate Protection Efforts**

In 2007, the County initiated efforts to quantify GHG emissions sources and formulate reduction strategies. The Board of Supervisors followed with the 2008 “action item” in the General Plan that directed the County Planning Commission to develop a Climate Action Plan (CAP).

The County’s response to AB 32 accelerated in 2008 and 2009 with a two-phase campaign to quantify and reduce GHG emissions in Napa County. In 2008, the Napa County Transportation and Planning Agency (NCTPA) received a \$75,000 climate protection grant from the Bay Area Air Quality Management District (BAAQMD) to produce a GHG emissions inventory. Staff at NCTPA and all Napa County government jurisdictions participated in the project. In 2009, the Napa Valley Community Foundation underwrote a survey to the refine the inventory and identify actions to reduce those emissions in the County.

The result of their work was the October 2009 publication of the community review draft of the Napa Countywide Community Climate Action Framework. This white paper suggested a series of “high impact/high leverage” actions for the county to consider and provided “a consensus-based context for further, more detailed planning efforts.”<sup>4</sup> It outlined a package of 53 actions for translation into locally-specific programs and projects countywide.

The below figures cited in the 2009 report illustrate the impact of emissions in each community within Napa County.

**Baseline 2005 Napa Countywide Community Emissions by Jurisdiction**

<b>Jurisdiction</b>	<b>2005 Emissions (metric tons of CO2 equivalents)</b>	<b>% of Total</b>
Yountville	28,305	2%
Calistoga	28,427	2%
St. Helena	46,052	4%
American Canyon	91,449	8%
City of Napa	455,062	38%
Unincorporated Napa County	550,986	46%
<b>TOTAL 2005 NAPA COUNTYWIDE EMISSIONS</b>	<b>1,200,281</b>	<b>100%</b>

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<sup>4</sup>[napawatersheds.org/files/managed/Document/4269/Draft\\_napa\\_climate.pdf](http://napawatersheds.org/files/managed/Document/4269/Draft_napa_climate.pdf)

In October 2011, the County published a revised CAP prepared by ICF International of Sacramento for the County Planning, Building and Environmental Services Department (Planning Department). This plan established 2005 as the baseline GHG emissions level (1990 information did not exist), forecasted emissions for 2020, and identified feasible measures to reduce 2020 emissions below 2005 levels.

Sometime between 2009 and 2012, the other jurisdictions within Napa County were excluded from the Napa County Plan. A Final Draft Napa County CAP for the *unincorporated* areas of the County followed in 2012. The Planning Commission and the Planning Department followed its publication by holding numerous public hearings and workshops explaining the CAP and soliciting input. It is evident from the public response and our Grand Jury interviews that each of the Napa County governments, environmental organizations, and business groups take climate change and the need for emission/pollutant mitigation seriously. The Planning Commission recommended adoption of the CAP that year but the BOS declined to adopt it, citing a need for further review of transportation emissions and the disproportionate burden placed on new development in rural areas.

In July 2015, the Planning Department contracted with consulting firm Ascent Environmental, Inc. of Sacramento to aid the department’s staff. The BOS approved a Professional Services Agreement that was extended for the third time in early 2018. Ascent is currently working to ensure the Plan’s legal defensibility and compliance with CEQA guidelines.

**County Professional Services Agreements with Ascent Environmental**

<b>Agreement/Amendment No.</b>	<b>Date</b>	<b>Expiration Date</b>	<b>\$ Amount</b>
8385	<b>July 14, 2015</b>	<b>June 30, 2016</b>	<b>99,890</b>
170543B-17	<b>October 4, 2016</b>	<i>(increase to above)</i>	<b>24,850</b>
170543B-17	<b>June 6, 2017</b>	<b>June 30, 2018</b>	<b>29,000</b>
170543B	<b>January 23, 2018</b>	<b>June 30, 2019</b>	<b>276,205</b>
<b>Total</b>			<b>429,945</b>

In June 2017, a revised Final Draft Napa County CAP for unincorporated areas was presented to the BOS. It has not been adopted, due to a Sonoma County Superior Court ruling on a legal challenge to that county’s CAP brought by California River Watch environmental group. The Court ruled in favor of River Watch, citing deficiencies with the Programmatic Environmental Impact Report (PEIR). Most significantly, the Court felt the plan failed to adequately measure the totality of the county’s carbon footprint by not accounting for the global reach of its tourism and wine industries. Because Napa County has a similar economic, geographic, and

environmental profile to Sonoma, the Planning Department and Ascent are examining potential legal issues with Napa’s draft CAP.

The hefty expense of the third amendment to the Ascent agreement is primarily for the preparation of an EIR for a CAP that will pass legal muster. The preparation of an EIR is a 6 to 9-month project followed by a mandatory 45-day public review period, which can be extended up to 60 days. The Planning Department has set January 2019 as its target to have a revised draft CAP to present to the BOS.

Meanwhile, Calistoga and Yountville have adopted CAPs, while the City of Napa, St. Helena, and American Canyon have or are producing climate action plans or sustainability and transportation initiatives of their own. The County Public Works Department has contributed several “green” programs to the cause, as well.

### **Factors that Affect the Content, Finalization and Adoption of the CAP**

There is broad consensus among the government entities, business organizations and environmental stakeholder groups we spoke with that climate change must be addressed in Napa Valley. The long-term viability of the local wine industry and the well-being of the area’s inhabitants are at risk. County planners are working to produce a CAP that balances the concerns of all those groups, and which can withstand any legal challenges that may derail its implementation. The County must consider the following points as it works to finalize the plan:

- Rapidly evolving scientific and technological advancements and updated government regulations that affect the relevancy of the Plan. CEQA regulations require an existing condition analysis of climate change agents, both long-term (GHG emissions) and short-lived climate pollutants (SLCPs), such as methane, chlorofluorocarbons [CFCs] and black carbon particles. Some environmental groups are pushing for the Plan to focus on the latter to realize a more immediate beneficial impact.
- The concepts and practices of carbon sequestration and carbon farming (such as the successful Huichica Creek Demonstration Vineyard project) have been shown to be effective complements to emissions mitigation and potentially lucrative endeavors for farmers. Carbon sequestration is increasingly recognized as an effective tool in the fight to remove CO<sub>2</sub> from the atmosphere.
- In 2011, the California Sustainable Winegrowing Alliance (CSWA)—created by Wine Institute and the California Association of Winegrape Growers in 2003—commissioned a carbon footprint assessment of the California wine industry. The study provides a template for identifying the areas that provide the most opportunities to reduce the carbon footprint of winery and vineyard operations.
- Per the County’s website: “The proposed Climate Action Plan quantifies greenhouse gas (GHG) emissions from *all sources* (Grand Jury emphasis added) in unincorporated Napa County.”<sup>5</sup>

<sup>5</sup>Napa County Draft CAP FAQ -

<https://www.countyofnapa.org/documentcenter/view/2037>

- The Plan only applies to the unincorporated areas of the County, leaving the other County entities to develop their own plans.
- It appears the Plan is still six to eight months from completion due largely to the shadow cast by the Sonoma County lawsuit. Mostly, the delays and additional costs are due to Napa's necessary response to the ruling in the case.
- Climate change is largely a function of land use, and woodland conversion for vineyards or other development will continue to be a significant factor in the County's CAP. In fact, the draft CAP includes:
  - Measure LU-1: Establishing targets and enhanced programs that result in the preservation of oak woodlands and coniferous forests to avoid future carbon storage and sequestration losses, along with mandatory replanting to mitigate for tree loss when land use changes occur, will result in the annual reduction of 4,544 MTCO<sub>2</sub>e by 2030.
- The Planning Department agrees with critics that the Plan language needs tightening up to remove any ambiguity about what will be required. There is support within the Planning Commission and environmental groups that, as much as possible, the proposed steps be mandatory, feasible, and quantified. The parties have coined the term "the trifecta" as shorthand for referring to those qualities.
- Voluntary vs. mandatory solutions. Most governments in the County would prefer a mix of voluntary and mandatory initiatives with an emphasis on the former. They prefer using incentives rather than punitive actions to attain their goals.
- Growers and farmers in the area believe they are already good land stewards and will adapt to the inevitable challenges presented by climate change. They are also concerned that measures promoting conversion from gas-powered to electrical equipment are not currently economically viable.
- Stakeholder groups have varying opinions about the degree to which their input on the current Final Draft Plan has been sought and valued by the County. Comments range from "not inclusive; all groups need a seat at the table" and "the more public hearings the better," to "at least good responses" and "very receptive." The Planning Department notes that four public hearings, workshops, and personal meetings with groups by staff have given the public ample opportunity to weigh in. In addition, the department has posted technical papers and "Master Responses to Public Comments Received on the Public Draft" on the County website.
- Almost to a person, there is agreement that a collaborative effort by all the County jurisdictions is the preferred method of dealing with climate change issues, yet, presently all are "going it alone." They point to unaligned interests making consensus difficult to achieve as the reason. Many say their individual efforts are too far down the road now to make a joint project a reality, and don't want the possible recriminations of being thought to be the one(s) that put the brakes on ongoing efforts.

## **FINDINGS**

The Napa County Grand Jury finds that:

- F1. The Planning Department, the agency responsible for bringing unincorporated Napa County a CAP, has generally been responsive to stakeholder groups' critiques of and suggestions for the Plan.
- F2. Ten years after adoption of Napa County's (updated) General Plan, the County is not in compliance with the General Plan's action item to prepare and adopt a CAP. While specifically the County's jurisdictional area, a CAP covering only the unincorporated areas of the County runs contrary to the comprehensive countywide approach favored by the County entities we interviewed and does not target GHG emissions reductions countywide.
- F3. There is no effort to coordinate Climate Action Plans between each of the jurisdictional communities within Napa County, which complicates the ability to identify, target, and reduce GHG emissions countywide in compliance with CEQA and BAAQMD regulations.
- F4. The County delayed its timeline for completion of the Plan because of the legal challenges that arose from the court ruling in the Sonoma County CAP lawsuit.
- F5. The existing draft CAP does not take into consideration all sources of GHG emissions, most notably winery operations emissions.
- F6. Tools exist to measure winery GHG emissions enabling the County to include winery emissions reductions in its CAP.

## **RECOMMENDATIONS**

The Napa County Grand Jury recommends that:

- R1. The Planning Commission and the Planning Department continue its community outreach efforts with more public hearings for a 60-day period starting in January 2019.
- R2. The CAP should consider including incentives starting in 2019 for carbon sequestration and woodland preservation and/or restoration projects under the guidance of the Planning Department.
- R3. The Planning Department should consider including a proposal to quantify and mitigate winery operations GHG emissions in the next CAP draft revision expected in January 2019.
- R4. The County finalize and adopt the Napa County CAP by June 30, 2019, executing under the terms of the current amendment to the professional services agreement.

R5. As follow-up upon completion of the CAP:

In February, 2019 the Planning Department take the lead to bring all the County jurisdictions to the table to discuss ways to coordinate all the existing climate change mitigation efforts in the County geographical area. We suggest each jurisdiction furnish the department (as a clearinghouse) with emissions targets and reduction results for inclusion in countywide reporting.

**REQUEST FOR RESPONSES**

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

Napa County BOS (R2 through R5)

**INVITED RESPONSES**

Pursuant to Penal Code section 933.05, the grand jury invites responses as follows:

From the following governing bodies:

Planning Commission, Napa County (R1, R4)

From the following individuals:

Director, Napa County Planning, Building and Environmental Services (R1, R2, R3, R5)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.



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**NAPA COUNTY GRAND JURY  
2017-2018**

**June 5, 2018**

**FINAL REPORT**

**NAPA COUNTY FARMWORKER  
HOUSING**

## NAPA COUNTY FARMWORKER HOUSING

June 5, 2018

### SUMMARY

There are 45,000<sup>1</sup> acres of vineyard in Napa County. Planting, maintenance and harvesting of these vineyards is the task of vineyard farmworkers. These farmworkers include permanent residents as well as migratory workers. Because of the current immigration situation and increased demand for year-round farm labor, a rising number of farmworkers desire to reside in Napa County on a permanent or semi-permanent basis. In addition, the farmworker demographics are changing significantly with women now making up greater than 30 percent of the workforce.

Today the County cannot project or provide for farmworker-housing needs because the County lacks current data on present and future farmworker labor patterns. The County last published a farmworker-housing needs assessment in 2013 based on 2012 data. The Napa County Grand Jury recommends that the farmworker housing assessment be brought current and that, based on the updated data, the Board of Supervisors adopt a farmworker-housing plan to meet the needs identified. In addition, the County Code should be modified to allow the Farmworker Centers to remain open year-round.

### GLOSSARY

- BAE:** BAE Urban Economics is an urban economics and development advisory consulting practice. It serves clients across the U.S., including public agencies, non-profit organizations, universities, and private developers.
- BOS:** Napa County Board of Supervisors. The Board of Supervisors is the governing body of Napa County, with jurisdiction that varies depending on the services. The Board has jurisdiction over land use, roads and municipal services in the unincorporated areas of the county. For other services, such as Corrections (jail), Health and Human Services, document recording, etc., the Board's jurisdiction is countywide.
- CHDC:** California Human Development Corporation (CHDC) is a state-wide not-for-profit corporation that operates the Napa County Farmworker Housing Centers on behalf of the County Housing and Intergovernmental Affairs (HIA) Division and coordinates County initiatives and activities with the cities and other jurisdictions within the County.
- CSA 4:** County Service Area No. 4 presently has a relatively limited role as a governmental sponsor of a special assessment on vineyards with proceeds supporting farmworker housing services provided by the Napa County Housing Authority.

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<sup>1</sup> Napa Valley Vintners, "Napa Valley Fast Facts," [https://napavintners.com/press/docs/napa\\_valley\\_fast\\_facts.pdf](https://napavintners.com/press/docs/napa_valley_fast_facts.pdf) (accessed February 14, 2018)

**EDD:** State of California Economic Development Department. The EDD is responsible for the state programs involving unemployment insurance, disability insurance, payroll tax collection, and job training/workforce services. The EDD also has internal programs such as business support, information technology, legal, public relations, internal auditing, and administrative positions.

**LAFCO:** Local Area Formation Commission of Napa County. LAFCO was created by the California Legislature in 1963 with regulatory and planning responsibilities to coordinate the timely development of local governmental agencies and their services while protecting agricultural and open-space resources. Most notably, this includes managing boundary lines by approving or disapproving proposals involving the formation, expansion, or dissolution of cities and special districts.

**NVV:** The Napa Valley Vintners is a nonprofit trade association whose mission is to promote, protect, and enhance Napa Valley.

## **BACKGROUND**

Farmworkers and day laborers are an essential component of Napa County’s wine industry. The 2013 Needs Assessment noted “It is notoriously difficult to secure accurate data regarding agricultural workers, due to seasonal fluctuations in employment, language barriers, and informal employment arrangements.”<sup>2</sup> Data accumulation is further complicated by the fact that statistics covering farmworker contractors headquartered outside of Napa County do not appear in Napa data. Estimates of farmworker employment fall between 6,000 and 9,000. Without accurate data and an analysis of projected demographic changes, the County cannot adequately address future farmworker housing needs.

A variety of housing options exists for farmworkers in Napa County. These include farmworker centers operated by the California Human Development Corporation on behalf of the County Housing Authority; private on-farm housing accommodations designated for agricultural use employees; private apartments or other housing rented or owned by farmworkers; and affordable housing projects subsidized by the County and by incorporated cities, some of which have units set aside specifically for farmworker households. A need exists for a coordinated, local, affordable housing program that addresses not only farmworkers, but all sectors of the labor market. With all sectors of the Napa County community expressing concern about the lack of affordable housing in general, and farmworker housing in particular, the Grand Jury determined to explore what information existed or did not exist on farmworker-housing needs.

## **METHODOLOGY**

### **Interviews**

- Member, Napa County Board of Supervisors

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<sup>2</sup> Napa County Housing and Intergovernmental Affairs, “Final Report: 2012 Napa County Farmworker Housing Needs Assessment,” March 29, 2013, pp 9

- Staff, Napa County Executive Office
- Executive, Napa Valley Vintners
- Owner, large vineyard management company

## **Tours**

- River Ranch Farmworker Center with Staff, CHDC

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## DISCUSSION

The first step in determining future farmworker housing needs is to understand and quantify the demographics of this labor force. BAE Urban Economics issued its *Final Report: 2012 Napa County Farmworker Housing Needs Assessment* on March 29, 2013. BAE also prepared the *Napa County Housing Element update, Draft Housing Needs Assessment*, and released it on December 16, 2014, but the farmworker portion of this report was essentially a repeat of the *2012 Farmworker Housing Needs Assessment* study.

### **Napa County Farmworker Demographics**

The Grand Jury received anecdotal information that the demographics of farmworkers are rapidly changing. Thus, farmworker housing needs are changing. The young- single- male-migrant worker of yesterday is being replaced by an older workforce with families. Long-term and permanent employees are also more common. Women are now estimated to comprise as much as 30 percent or more of the vineyard workforce.

Changes in immigration policies, increased skill level requirements, and potential competition with other industries are contributing to a general shortage of workers. One reflection of this shortage is rapid increase in Napa farmworker wages. The increase in the number of women in the workforce is probably a combination of the general shortage of workers and the particular skills they bring.

### **The Impact of Mechanization on Labor Needs**

The mechanization of vineyard care introduces another variable in predicting farmworker needs. Mechanization of vineyard care, including mechanical harvesting, may be the result of a tighter labor market, or may contribute to the need for fewer workers. Cause and effect is not clear. Grand Jury interviews revealed that approximately 25 percent of valley floor harvesting is now accomplished with mechanical harvesters.

Mechanization is not new. In 2002, the Wine Business Monthly noted:

With labor and other costs like insurance going through the roof, coupled with more and more short notice delivery demands being placed on growers by the wineries, the option of mechanical harvesting is not only becoming increasingly attractive, but also a necessity in many cases. Where it has been adopted, there is no doubting the impact that mechanical grape harvesting has had. It has led to increased efficiencies through improved vineyard management in harvesting the grapes and delivering them...<sup>3</sup>

While the cost- and time-saving benefits of mechanized harvesting and vineyard maintenance are widely accepted, there are many reasons why mechanization is not a universal answer to the high cost of vineyard labor. For example, many vintners of high-priced Napa wines prefer hand-harvesting grapes in order to keep the clusters intact all the way to the winery. Many vintners prefer to ferment the grapes with the stems in order to extract tannins, which are a desired characteristic of many Napa Cabernets. In addition, there are practical issues with mechanization

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<sup>3</sup> <https://www.winebusiness.com/wbm/?go=getArticleSignIn&dataId=20784> accessed 1/13/2018

in hillside vineyard locations where heavy equipment is unsafe or impractical. Numerous other considerations (cost of machinery, effect of machinery on soil and vine health, early onset of fermentation, and quality perception issues) mean it is unlikely that mechanization will ever fully replace the need for skilled farmworker labor.

**Existing Farmworker Housing Resources**

Public Farmworker Housing Centers

The County currently operates three Farmworker Centers: Calistoga, Mondavi and River Ranch. The centers provide lodging, meals, laundry and recreational amenities, primarily serving unaccompanied males. Each center has 60 beds (30 rooms with 2 beds each), for a total of 180 beds. A single room in a separate building is designated for women at the River Ranch Facility. TV and other recreational opportunities for the residents are limited.

Napa County Code<sup>4</sup> specifies that none of the public labor centers may remain open year-round. Each is closed for a portion of the period from November through February when the demand for labor decreases. The current closure dates are shown below:

**Table 1: County Farmworker Center Closures**

Farmworker Center	Close	Open
Calistoga	11/11/2017	12/31/2017
Mondavi	11/04/2017	12/31/2017
River Ranch	12/30/2017	02/04/2018

At least one of the centers is open during each month of the year; however, there is a period during which two of the three are closed. The Grand Jury believes that regulations should be modified to permit year-round operation because a single center alone does not meet demand. The Grand Jury was advised that one of the stated reasons for the closures is to permit needed maintenance. However, the jury was informed that in practice, maintenance issues are handled as they arise. On inspection, the River Ranch Center appears to be well maintained.

LAFCO has stated: “It is important to note the southern and eastern portions of Napa County have few licensed employee-provided housing facilities and do not have a public farmworker housing center.”<sup>5</sup> The concern for the need of additional farmworker housing in the southern and eastern portions of the County was expressed in multiple Grand Jury interviews.

The Grand Jury toured the River Ranch Farmworker Housing Center. The California Human Development Corporation staff member was very helpful and provided a valuable historical perspective of the Housing Center origin and operation.

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<sup>4</sup> §18.104.305 Farmworker centers—Owned or managed by local government agency.  
<sup>5</sup> Local Agency Formation Commission of Napa County, *County Service Area No 4, Municipal Service Review and Sphere of Influence Update Checklist, December 2017*, pp 6

The River Ranch Farmworker Center



*Napa County Farmworker Centers, PowerPoint*



*Grand Jury Photograph*



*Grand Jury Photograph*



*Grand Jury Photograph*



Public Farmworker Housing Revenue

The farmworker center revenue<sup>6</sup> sources are as follows:

**Table 2: Fiscal Year 2017-2018 Budgeted Revenue**

<u>Item</u>	<u>Budget (\$)</u>
Interest	2,550
Rent – Tenants	728,200
Rent – Staff	25,920
Laundry Services	7,500
Donations and Contributions	50,000
Transfers-In (see below)	546,530
Total	1,360,700

The Farmworker Centers charge residents \$14 per night, which includes lodging and three meals per day. Staff (assistant cooks, cooks, and site managers) pay \$360/month.

Transfers-In Revenue

(1) County Service Area No. 4

Vineyard owners in Napa County (vineyards greater than one acre) have formed a County Service Area (CSA #4) to assist in the funding of Farmworker Centers. The LAFCO CSA 4 Update report of December 2017 states:

CSA 4 is a dependent special district formed in 2002 and is authorized to provide specific range of municipal services relating to the provision of public farmworker housing in Napa County. These authorized municipal services involve (a) acquiring, (b) building, (c) leasing, and (d) operating public farmworker housing. CSA 4 presently helps fund the operation of three farmworker housing enters with a combined capacity of 180 beds through a voter-approved special assessment on vineyards that are one acre or more in size.

Napa is the only county in the U.S. where growers assess themselves for farmworker housing. At \$10/acre, the 2016 CSA 4 aggregate assessment was \$459,970. In 2017 the vineyard owners voted to increase the maximum CSA 4 assessment to \$15/acre.

(2) Assembly Bill 317, Aguiar-Curry, Napa County: farmworker housing

The State of California will provide the Napa County Housing Authority with up to \$250,000 a year in matching funds.

(3) County of Napa Housing Authority

The Housing Authority has traditionally funded the difference between expenses and the major funding sources. The Assembly Bill 317 contribution by the State will reduce the required County Housing Authority contribution.

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<sup>6</sup> County of Napa, State of California Adopted Budget Fiscal Year 2017/2018, California Human Development Corporation, Napa County Farmworker Housing Centers, Budget Narrative

### Private Farmworker Housing

A small portion of the growers and vineyard management companies provide housing for some of their farmworkers. Private housing that exceeds five beds is regulated by the State, requiring a permit to operate, and is administered by the County Department of Housing and Community Development, Division of Codes and Standards. Currently there are five such facilities providing a total of 104 beds as shown below:

**Table 3: Private Farmworker Housing**  
(More than five beds)

<u>Permit Name</u>	<u>No. of Beds</u>
Yount Mill Vineyards	32
York Creek Vineyards	13
Caymus Vineyards, Inc.	11
Beringer	24
Napa Valley Farm & Ranch Co.	24

In addition to the regulated private farmworker housing, there are approximately 80 additional private farmworker housing facilities with accommodations for fewer than five farmworkers<sup>7</sup>. These smaller facilities are not regulated by the State. Property owners who provide private farmworker housing may request an exemption from the CSA No. 4 assessment.

### **Napa County Farmworker Housing Needs**

Currently farmworkers living in Napa reside in Farmworker Housing Centers; private sector housing, including private sector rental homes and apartments owned by farmworkers; rooms and garages rented from homeowners; and motels in and around Napa County. Private sector housing in Napa County is expensive, particularly in relation to farmworker income levels. The lack of affordable farmworker housing likely impacts the availability of farm labor. A “significant”<sup>8</sup> number of farmworkers are “contract” employees living outside the county who commute by private automobile or are bused to Napa by contract agencies and various vineyard management companies.

The December 2017, Napa Local Area Formation Commission (LAFCO) Sphere of Influence Update report, also quoting the 2012 BAE study, noted:

Immigration concerns and increased demand for year-round farm labor has resulted in a high number of farmworkers choosing to reside in Napa County on a permanent or semi-permanent basis. This increases the need for local, affordable farmworker housing and has resulted in a trend of farmworkers seeking family housing and all the services and amenities associated with raising families.

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<sup>7</sup> Final Report: 2012 Napa County Farmworker Housing Needs Assessment, March 29, 2013, page vii

<sup>8</sup> Napa County Housing Element Update, Draft Housing Needs Assessment, December 16, 2014, page 59

Approximately half of local farmworkers either live in other counties or are migrant workers with no permanent residence.

## **FINDINGS**

The Napa County Grand Jury finds:

- F1. Napa County does not have a current farmworker housing needs assessment.
- F2. There is a lack of affordable farmworker housing in Napa County.
- F3. A shortage of farmworkers can be attributed to changing immigration policies, competition from other agricultural demands, competition from other sectors such as construction and food service, and the lack of affordable housing.
- F4. With an increasing number of long-term farmworkers, the simultaneous closure of two units of Farmworker Housing results in a housing demand which exceeds capacity.
- F5. There is virtually no publicly subsidized housing for female farmworkers in Napa County.
- F6. The River Ranch Farmworker Center appears to be well maintained.

## **RECOMMENDATIONS**

The Napa County Grand Jury recommends:

- R1. The Napa County Board of Supervisors commission an update to the 2012 *Final Report: Napa County Farmworker Housing Needs Assessment* not later than September 30, 2018. An updated assessment of farmworker housing needs should include:
  - An identification of actual and projected farmworker numbers
  - The number of women in the workforce
  - The number of male and female workers accompanied by families
  - The number of farmworkers choosing to reside in Napa County
  - Housing needs for southwest-County workers (e.g., Carneros)
  - Farmworker income
- R2. The Napa County Board of Supervisors, together with the appropriate stakeholders, prepare and publish a detailed action plan to meet County farmworker housing needs not later than June 30, 2019. These recommendations should specifically address south-County housing requirements.
- R3. The Napa County Board of Supervisors amend the farmworker housing regulations to permit year-round operation of the Farmworker Housing Centers not later than June 30, 2019

## COMMENDATIONS

The Napa County Grand Jury commends:

- C1. The California Human Development Corporation and housing center staff for the operations of the Farmworker Housing Centers.

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following governing bodies:

Napa County Board of Supervisors: **R1, R2, and R3**

The Napa County Grand Jury invites responses as follows:

California Human Development Corporation: **R3**

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the jury.
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**NAPA COUNTY GRAND JURY  
2017-2018**

**June 5, 2018**

**FINAL REPORT**

**Financial Challenges Persist at Napa Valley  
Unified School District**

## **Financial Challenges Persist at Napa Valley Unified School District**

June 5, 2018

### **SUMMARY**

The Napa Valley Unified School District (NVUSD) has experienced operational budget deficits for the past four years. Budget deficits are now projected through 2022 and are estimated to total more than \$12 million. The deficits are primarily a result of shrinking student enrollment that has lowered District revenues, and increasing costs associated with two large pension programs, the Public Employee Retirement System (PERS) and the State Teachers Retirement System (STRS). Both of these factors are outside of the District's direct control.

Until 2014, the District enjoyed fifteen years of consistent enrollment increases and the increased funds accompanying those students. However, the District has lost 525 students to date from a peak enrollment of 18,343 in 2014. The enrollment today of 17,818 students is estimated to drop by well over another 1,000 students by 2022 according to the latest demographic projections. District officials and their demographic consultants primarily attribute the loss in enrollment to the lack of affordable housing in the cities of Napa and American Canyon, making it difficult for families with young children to buy or rent in the area.

As declining enrollment reduced revenue, sharp unexpected increases in District contributions to STRS and PERS have significantly increased costs. Over the past eight years, pension contributions have nearly doubled. This is primarily because pensions are underfunded by the state, and therefore school districts have been directed to increase their contribution percentage. For the NVUSD, the annual impact of these state-mandated rate increases will exceed \$2.5 million per year.

In order to bring the school budget into balance, the focus of the NVUSD has been to sharply reduce "rainy day" reserves below the District's 7.5 percent policy guideline, cut faculty and staff positions, and offer early retirement packages to employees.

In the recent FY2018/19 Budget Outlook presentation to the Board of Education in March 2018, the District said that it is looking at eliminating an additional 50 teaching positions as well as making further cuts to staff positions. Furthermore, program cuts such as eliminating seventh- period at middle schools and high schools, campus consolidations, and increasing class sizes are all being considered in the future.

The Grand Jury appreciates the difficulty in balancing the school budget, particularly in the context of declining enrollment and mandated cost increases. However, the Grand Jury believes that the school district must go beyond planning on a year-to-year basis and present the community with a comprehensive, five-year financial plan that articulates its vision for the future. We believe the development of a comprehensive, long-term plan will help the community better understand that the District is dealing with the issues and is on a path to fiscal solvency.

Furthermore, the Grand Jury believes that the school district should make a serious effort to find ways to increase revenues. In the March 2018 report to the Board of Education, the NVUSD Budget Advisory Committee recommended several ways that the District could add additional revenue. One good example was to increase attendance if only by 1 percent. While other ideas may require further

study, some can be implemented quickly. To that end, concrete plans should be developed to insure quick and effective implementation.

Finally, the Grand Jury believes that additional means of communication should be identified to make the community more aware of school budget issues and explain what the District is doing about them. The Budget Roadshow and Annual State of the School presentation are a good beginning. Other more frequent forms of communication should be identified.

## **GLOSSARY**

BAC- Budget Advisory Committee- a group made up of teachers, staff, union representatives, principals, trustees, parents and residents that provides budget input and solutions to the Superintendent

BOE- Board of Education

Budget Roadshows- yearly presentations held at each high school where District staff discuss budget issues with the community

JSA- Jack Schreder & Associates- demographic consultant hired by the District to make student demographic projections

LCFF- Local Control Funding Formula- funding mechanism for school Districts established in 2013, that determines how much money per student each District receives from the state

NVUSD- Napa Valley Unified School District

PERS- Public Employee Retirement System

STRS- State Teachers Retirement System

## **BACKGROUND**

In 2017-18 the Napa County Grand Jury received several inquiries regarding the NVUSD budget. There were concerns of deficits appearing to come out of the blue and also questions about how certain funds were spent. After a round of interviews and background research, the Grand Jury decided to focus an investigation on the state of the school budget.

The source of funds for schools in California changed dramatically in the late 1970s. Until then, schools were predominantly funded by local property taxes. However, in 1978, the voters of California approved Proposition 13. This fundamentally altered the relationship between state and local governments in terms of the financing of public education. Property tax increases are now limited to no more than 2 percent per year as long as the property is not sold. Once sold, the property is reassessed at 1 percent of the sale price and the 2 percent yearly cap becomes applicable to future



years. Importantly, Proposition 13 led to the state effectively taking control of local education funding and gave it the responsibility for allocating property tax revenues among local jurisdictions.

In 2013, another major change to school funding was enacted into law: the Local Control Funding Formula (LCFF). This has the objective of increasing local District control while ensuring that student needs drive the allocation of resources. Under this formula, each school District receives a base level of funding calculated on average daily attendance across four grade spans. Additionally, the Districts received a supplemental amount for each student who is either an English learner, eligible for free or reduced lunch, or in foster care. The NVUSD currently receives most of its revenue based on the LCFF, as do more than 90 percent of school Districts.

The District currently has 17,818 enrolled students. Projected revenue for FY 2017/18 is \$182.5 million. Expenditures for the current fiscal year are expected to be \$185.9 million, creating an operational deficit of over \$3 million. Approximately 85 percent of expenditures are committed to salaries and benefits for employees and retirees. The average daily attendance in FY2017/18 is estimated at 15,848 students (does not include charter schools), which translates to an average absentee rate of 4 percent for the year. In FY 2017/18 the District is expected to receive \$8,771 per student in state funding based on the LCFF. The budget reserve for the current year is 3.41 percent, well below the BOE's 7.5 percent policy guideline but above the state's 3.0 percent minimum target.

The annual budget planning process for the District is complex and takes place over a six-month period. Input from the community occurs at several points during this process. Planning begins in January with the announcement of the Governor's budget and ends in June, with Board of Education approval. Critical input from key stakeholders is received both during the Budget Roadshows that occur in February as well as from the Budget Advisory Committee that meets throughout the year and presents its recommendations to the Superintendent in March.

## **METHODOLOGY**

### **Interviews**

Multiple interviews were held with individuals responsible for budget planning, budget development and budget implementation within the NVUSD. In addition, interviews were conducted with the Napa County Office of Education and the Budget Advisory Committee.

### **Meeting Attendance**

The Grand Jury attended several NVUSD School Board meetings. In addition, the jury attended a Budget Roadshow as well as the February State of the School presentation.

### **Documents**

The following documents were reviewed by the Grand Jury:

2014/15 NVUSD Complete Budget

- 2015/16 NVUSD Adopted Budget
- 2016/17 NVUSD Adopted Budget
- 2017/18 NVUSD Adopted Budget
- 2018 Budget Advisory Committee Presentation to the Board
- 2016/17 Demographic Analysis and Facility Capacity Study
- 2017/18 Demographic Analysis and Facility Capacity Study

**DISCUSSION**

**Enrollment**

The NVUSD has been losing students for the past three years and is expected to continue experiencing declines for at least four more years. Even as recently as 2015, the District’s demographic consultants, JSA, were predicting modest growth for the next 10 years.

From 2004 through 2014, NVUSD enrollment increased 8.1 percent, from 16,974 students to 18,343 students. In 2014, what appeared to be an ever-increasing student enrollment trend suddenly reversed course. Initially, the declines were modest, but have grown steeper more recently. In FY 2015/16, the first year of decline, enrollment decreased by a little over 100 students. In the next year, enrollment decreased by 258 students. Actual District enrollment for the past five years is shown below:

**NVUSD Five Year Actual Enrollment**

FY2013/14	18,230
FY2014/15	18,343
FY2015/16	18,216
FY2016/17	17,975
FY2017/18	17,818

Over the next four years, enrollment is expected to decline to 16,429 students. Thus, over a seven-year period the District is expected to lose over 1,400 students. Enrollment projections for the next four years are detailed below:

### **NVUSD Enrollment Projections**

FY2018/19	17,124
FY2019/20	16,788
FY2020/21	16,429

There is a significant revenue impact to the school District as a result of declining enrollment. In the current year, revenues are estimated to decrease by \$2.8 million. Projections for the next three years indicate a total revenue decline of \$7.7 million.

### **School Budget Deficits**

The school District has run operational deficits for the past five years. In fact, operational deficits existed before the enrollment decline began. Budget shortfalls over the past five years are shown below:

### **NVUSD Operational Budget Deficits**

FY2013/14	\$1.112 million
FY2014/15	\$3.903 million
FY2015/16	\$4.304 million
FY2016/17	\$5.684 million
FY2017/18	\$3.386 million (est.)

An overview of the FY2018/19 school budget was presented to the BOE in March 2018. No long-term budget plan was included. A brief financial estimate for the two years following FY2018/19 was also included. The estimate projects deficits for FY2018/19 and a likelihood of deficits for the following two years. The multi-year projections included in the presentation are shown below:

**Multi-Year Operational Deficit Projections (March 2018 Budget Overview Presentation)**

FY2018/19	\$3.868 million
FY2019/20	\$3.644 million
FY2020/21	\$1.351 million

**Budget Cuts**

Efforts to balance the budget have focused on a combination of budget cuts and reductions in the reserve fund. Over the past two years, the District has made the following cuts to the budget:

1. Reducing non-personnel operating expenses by nine percent in 2016
2. Eliminating 110 full-time positions in 2017
3. Not filling vacant positions in 2016 and 2017
4. Offering an early retirement package to faculty and staff in 2017

In addition, for the past five years, reductions have been made to the percentage of funds that the District holds in reserve. BOE policy dictates that the District hold 7.5 percent of its annual budget in a reserve account for economic uncertainty. The state minimum is 3 percent. For the past two years, the reserve fund has been reduced to 4.5 percent in FY 2016/17 and 3.41 percent in FY2017/18. It is projected to be 5 percent in the coming year, and not expected to reach the 7.5 percent target until FY2020/21.

**Impacts of Mandated Costs**

The NVUSD is also facing mounting cost pressure, particularly as a result of increased pension costs. Pension costs are estimated to more than double over the next eight years, compared to the current year's cost. The employer-paid percentage of pension costs has risen to over 15 percent for PERS and over 14 percent for STRS in the current year. The increased contribution levels resulted in a \$2.5 million increase in the school budget this year. PERS and STRS contribution rates are projected to increase to over 20 percent for PERS and 25 percent for STRS by FY 2023/24.

**Housing and Rental Costs**

According to 2017 data from RealtyTrac, Napa County's housing market is currently ranked as the seventh least affordable in the United States. For perspective, the average wage earner would have to spend almost 85 percent of wages to be able to afford a median-priced home. Many families with small children are being priced out of the local market and are forced to look at other communities.

RealtyTrac data for the city of Napa indicates that for 2017, the median price of a house was \$594,000. This compares to a median price of \$340,000 in 2011. The housing crunch is made even more severe as a result of reduced inventory due to the wildfires in October.

Rental prices in Napa have also increased at a significant rate. Data from Zillow indicates that the average monthly rental cost in the city of Napa was \$2,800 in 2017, a \$300 increase over the year before.

Importantly, American Canyon, a major source of affordable single-family homes within the school District, is also experiencing major increases in home prices. The median home price in American Canyon is now \$478,000.

### **Community Input and Communication**

The NVUSD has been more forthcoming about budget realities in the last few years and has taken steps to improve communication. The first comprehensive budget-shortfall presentation was made in Spring 2017. It included a detailed look at the nature of the budget issues and reviewed steps taken to address them. While there was mention that the District would make an effort to prepare quarterly budget reports and post them on the District's website, they have failed to do so. In addition, the District agreed to organize Budget Roadshows each year. Three of these took place in February 2018. In these presentations, District staff discussed budget issues as well as received input from key stakeholders in the community. Finally, for the past two years, the Superintendent addressed the state of the schools at annual public meetings. While the meetings did not include detailed budget discussions, financial issues were mentioned.

### **Budget Advisory Committee**

The NVUSD Budget Advisory Committee consists of teachers, parents, staff, and members of the community. Its purpose is to make recommendations to the staff and BOE regarding the school budget. This year, the BAC made recommendations that included ways to increase revenues rather than simply cut expenditures. These recommendations included:

1. Increase the number of students admitted to the District (through inter-District transfers) resulting in \$600,000 in additional net revenue
2. Increase student attendance rates by .5 percent to 1 percent which could result in increased revenue of \$763,000 to \$1.5 million
3. Investigate the possibility of a "tourist" tax to support educational programs at NVUSD

## **FINDINGS**

The Napa County Grand Jury finds that:

- F1. The FY2018/19 Budget Overview Presentation to the BOE in March 2018, indicates the likelihood of budget cuts for the next three years, but does not include a detailed, long-term plan for the future.
- F2. Over the past 3 years of budget deficits, District emphasis has been on cutting costs, not growing revenue.
- F3. The NVUSD has made significant strides to communicate budget issues as well as invite input from the community.

## **RECOMMENDATIONS**

The Napa County Grand Jury recommends that:

- R1. By the end of calendar year 2018, the Napa Valley Unified School District should develop a detailed, five-year financial plan for the District.
- R2. In calendar year 2018, the District should develop and implement a comprehensive marketing program designed to increase attendance.
- R3. In calendar year 2018, the Napa Valley Unified School District should develop a website link devoted to budget news and post regular quarterly updates.

## **REQUEST FOR RESPONSES**

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following governing bodies:

- Napa Valley Unified School District BOE (R1-R3)

## **INVITED RESPONSES**

Pursuant to Penal Code section 933.05, the Napa County Grand Jury invites responses as follows:

- Napa County Office of Education (R1-R3)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

This report was issued by the 2017-2018 Napa County Grand Jury with the exception of a juror who is a former employee of the NVUSD. This grand juror was excluded from all parts of the investigation, including interviews, deliberations, and the writing and approval of this report.





**NAPA COUNTY GRAND JURY  
2017-2018**

**June 18, 2018**

**FINAL REPORT**

**NEW NAPA COUNTY JAIL  
Who's Paying for All of This?**



**New County Jail: Who's Paying for All of This?**  
Thursday June 14, 2018

**SUMMARY**

Every recent Napa Grand Jury has reported on the deteriorating conditions of the present Jail, and the 2017-2018 Grand Jury's findings are no different.

For over a decade now, Napa County officials have been discussing, planning, and budgeting for a new Jail facility to replace the outdated and overcrowded Napa County Jail. Until 2015, County residents were kept apprised of the current plan and budget via the County's website. Beginning in late 2015, that web-based progress tracker ceased being updated. Since that time, it has been difficult for residents to understand the plans, timeline, and funding details of this oft-changing project.

The current Jury elected to focus the bulk of this year's investigative efforts into the status of the County's plan to build and fund a new Jail, as well as an associated Staff-secure Re-entry Facility, all on land the County acquired near the Syar Quarry in South Napa. This Jury also desired to follow up on several issues raised in earlier Grand Jury reports, including the remodeling of the basement and control room of the existing Jail, as well as the status of efforts to improve recruitment and retention efforts in the Department of Corrections.

As a result of the 2017-18 Napa County Grand Jury's investigation, the jury recommends the County re-establish a dedicated web presence in order to better inform the public regarding Jail and Re-entry timeline and funding. The Grand Jury also commends the Napa County Department of Corrections and the Probation Department for their collaborative efforts in the construction and operation of a Staff-secure Re-entry facility. This facility will assist inmates with their transition back into the community.

**GLOSSARY**

**BOS:** Napa County Board of Supervisors

**BSCC [California] Board of State and Community Corrections:** A multi-faceted organization that provides assistance to the counties on community corrections issues. The agency annually administers and awards millions of dollars in grants designed to reduce recidivism and administers the current lease-revenue bond process for local jail improvements. It also promulgates regulations and inspects local detention facilities, as well as other responsibilities.

**DOC:** Napa County Department of Corrections

**Evidence-based Practices (EBP):** As defined by the County's Adult Correctional System Master Plan, when used in corrections is "progressive, organizational use of direct, current

scientific evidence to guide and inform efficient and effective correctional services. Research has indicated that certain programs and intervention strategies, when applied to a variety of offender populations, reliably produce sustained reductions in recidivism.”

### **Funding Definitions:**

**Lease-revenue Bond** is a type of revenue bond that usually finances the construction of facilities, such as correctional facilities. Lease revenue bonds have a lessee, the State of California, which grants the county the awarded funds. The State uses the facility as collateral for the bonds. While the county is required to own the land, the State controls the land for 30 years as part of the process.

**Certificates of Participation** are financial instruments, a form of financing, used by municipal or government entities. They are different from bonds issued by these agencies since participation certificates are secured by lease revenues. Moreover, they do not require the 2/3 voter approval of a bond issuance. Payments on the loan are included in the recommended budget each year and are funded through the county general fund.

**Excess ERAF (Educational Revenue Augmentation Funds)** (Napa County Budget Glossary, Excess ERAF): By state law, the county (and other taxing jurisdictions) must shift real-property tax revenue that would otherwise go to the general fund to what is called the Education Revenue Augmentation Fund (ERAF). ERAF money is used to pay some of the state’s obligation to fund local schools such as Napa Valley Unified School District. To the extent the amount “shifted” exceeds what is actually needed, “excess ERAF” results in funds that are then shifted back to the County and the other taxing jurisdictions in the same proportion of their contribution. The amount of excess ERAF returned to the County is unknown and uncertain each year. In 2017-2018, 12 percent of each property-tax dollar went to ERAF and the County’s share was about 10 percent.

**Reserve:** (Napa County Budget Glossary) “An amount set aside from the County’s operating funds to meet emergency expenditure requirements, capital funding, or insurance and liability requirements.”

**MSA:** Tobacco Master Settlement Agreement. The Tobacco Master Settlement Agreement (MSA) was entered in November 1998, originally between the four largest United States tobacco companies (Philip Morris Inc., R. J. Reynolds, Brown & Williamson and Lorillard – the "original participating manufacturers", referred to as the "Majors") and the attorneys general of 46 states. The states settled their Medicaid lawsuits against the tobacco industry for recovery of their tobacco-related health-care costs. In exchange, the companies agreed to curtail or cease certain tobacco marketing practices, as well as to pay, in perpetuity, various annual payments to the states to compensate them for some of the medical costs of caring for persons with smoking-related illnesses. In the MSA, the original participating

manufacturers (OPM) agreed to pay a minimum of \$206 billion over the first 25 years of the agreement.<sup>1</sup> Napa County receives approximately \$1.4 million per year in MSA funds.

**Resolution** (Napa County definition): “A Napa County Resolution is a formal expression of an opinion, intention or decision by the Board of Supervisors, agreed to by vote.”

**Senate Bill 1022** (Filed June 27, 2012): Lease-revenue bond financing for the County’s purpose of financing a staff secure criminal justice facility. The County is required to pay a portion of the costs.

**Senate Bill 844** (Filed June 20, 2016): Conditional lease-revenue bond financing awarded \$270 million to nine counties to finance improvements to local jail facilities. Napa County received \$20 million from this financing.

**Senate Bill 863** (Filed June 20, 2014): Lease-revenue bond financing for the acquisition, design, and construction of an adult criminal justice facility. The County received \$2.2 million.

**Type II Facility** [BSCC]: Used for the detention of persons pending arraignment, during trial, and upon a sentence of commitment. These are typically referred to as “county jails.” Present jail is Type II and is inspected biennially by the BSCC.

**Type IV Facility** [BSCC]: A local detention facility or portion thereof designated for the housing of inmates eligible under Penal Code §1208 for work/education furlough and/or other programs involving inmate access into the community. Staff-secure Re-entry Facility is a Type IV Facility, inspected by the BSCC.

## **BACKGROUND**

The Napa County 2017-18 Grand Jury is mandated by California Penal code sections 919(b) and 921 to “inquire into the condition and management” of the County’s Jail. After the Jury’s November 2017 tour of the jail and observing its deteriorating condition and obsolescence, the grand jury determined to put its investigative efforts into the County’s decade-old plan to construct a new Jail and Staff- secure Re-entry Facility, as well as the sources of their funding.

A secondary goal was to follow-up on three unfinished projects: the new Control Room, the completion of the basement construction allowing the return of inmates housed in the Solano County jail, and the status of recruitment efforts needed to fill vacancies and future needs.

The County jail in its present location in downtown Napa was completed in 1976 and expanded in 1989. This remodeled, 264-bed facility included a basement in the Hall of Justice built to house 39 minimum security beds in a dormitory-style arrangement. A Work Furlough program operated from this location. The Napa County jail is operated by a civilian Department of Corrections (DOC). Its director reports directly to the Napa County Board of Supervisors (BOS).

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<sup>1</sup> [https://en.wikipedia.org/wiki/Tobacco\\_Master\\_Settlement\\_Agreement](https://en.wikipedia.org/wiki/Tobacco_Master_Settlement_Agreement)

## **Current Jail**

When opened, the jail was intended to house inmates who were:

1. Awaiting court (bail) hearing;
2. Awaiting trial and could not make bail; or,
3. Sentenced to incarceration for one year or less

In 2011, under federal court order, California enacted the Public Safety Realignment Act to alleviate overcrowding in its state prisons. This law resulted in county jails having to house more criminally-sophisticated felons who serve longer sentences. Napa Jail officials started to see an increased need for maximum-security cells and less need for minimum-security beds.

The 6.0 earthquake that rattled Napa in August 2014 further exacerbated Napa's Jail capacity issue. Damage from the earthquake necessitated immediately moving more than 40 inmates to Solano County's jail due to unsafe conditions at the Napa facility. This displacement cost the county approximately \$1.8 million for fiscal 2016-17 alone. With the inmates safely removed, the jail underwent \$2 million in earthquake repairs and \$6.5 million in basement upgrades. Upon completion, those inmates were returned to Napa in March 2018. Other important upgrades planned at this facility, with no completion timeline available, include the freight and security elevators, as well as a fire smoke-sealing project, a preventative safety measure.

## **Is a New Jail Needed?**

Through research and interviews, the 2017-18 Napa County Grand Jury agrees with County executives that a larger and more up-to-date jail facility is necessary. One important reason is the 2011 Criminal Justice Realignment Act (AB109 and AB117), which moved many low-level offenders, who would normally have been incarcerated in state-managed facilities, to be housed, instead, in county jails. This significantly increased the inmate population. Since Realignment, certain felons are being housed in jails, increasing the inmate population.

Another reason for a new jail is that the current facility is less secure than newer jails, which possess the latest security technology. Currently, there are areas where visual and video monitoring are not available, which increase the risk of harm to both correctional officers and inmates. Inmate crowding, coupled with the lack of effective security, resulted in an increased number of assaults on correctional officers since 2011.<sup>2</sup>

The 2014 Napa earthquake caused 25 percent of inmate housing to become unusable, overcrowding the facility even more. While a significant portion of the repair expense was covered by insurance, substantial money and time were required for prisoner transport and out-of-county housing. New buildings, having much higher earthquake standards, should prevent such costly crises in the future.

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<sup>2</sup> Napa County Grand Jury 2014-2015 "Jail and Department of Corrections," pg. 7

Other reasons for a new facility include the current jail’s aged design, gang member violence, and maintaining inmate Title 15 standards. Also, a new jail will reduce the County’s exposure to lawsuits, which create more financial burdens on the County.

Federal and State evidence-based practice initiatives now mandate that mental health/addiction counseling and job training become key components of jail programming. However, the existing jail has virtually no classrooms or facilities to assist with rehabilitation, since it was designed when “time behind bars” was standard protocol. A new facility addresses these issues.

## **METHODOLOGY**

Tours of the Napa County Jail (See Appendix B)  
Interviews with senior Napa County Department of Corrections management  
Interview with Napa County staff analyst  
Interview with member of Debt Financing Committee  
Interview with Public Works jail project lead manager  
Attended CCP meetings  
Attended BOS meeting  
Review of 10 prior Napa County Grand Jury Jail reports  
Creation of a working timeline  
Review of various documents (see Bibliography)

## **DISCUSSION**

### **Jail Construction Timeline Clarity**

The 2017-2018 Napa Grand Jury finds the accuracy and transparency of new jail construction is confusing or non-existent. When the Grand Jury began this investigation, the County website framework (which had been implemented and copyrighted in 2009) contained a section which included information and timeline updates for the proposed new Napa County Jail. However, the Jury noted that the last update to this new Jail information was posted in November 2015. During the Jury’s investigation, Napa County released a new and improved County website framework and design in December 2017. This new site has not included new, updated information regarding construction of the Re-entry Facility or Jail development milestones. To address the confusion surrounding jail construction and funding, the Napa 2017-18 Grand Jury created a construction and funding timeline based on its investigation, which can be found in Appendix A.

Since first being discussed by the BOS in 2007, the new Jail plan has been revised multiple times, with numerous changes to the number of cells/beds, building phases, timelines and budgets. Ultimately, the various plans were consolidated into a single project, consisting of a 304-bed facility with an additional 28 specialized medical/mental health beds. The current estimated new jail cost is \$128 million. There are currently no plans to raze the old jail. None of this recent information has been updated on the County website.

In addition to the jail, county officials broke ground in June of 2017 on a 72-bed Staff Secure Re-entry Facility, at 2300 Napa-Vallejo Hwy, near Syar Industries. This facility is separate of

jail construction and funding, adding more confusion to the public’s understanding of these independent projects.

**Jail Funding**

In June 2016, Napa County voters rejected Measure Y, which would have authorized a quarter-percent sales tax increase to fund a new jail. As a result, the BOS has been studying alternative funding sources for several years.

The current estimated project cost of the new jail is \$128 million. On May 15, 2018, County staff presented a Jail funding plan to the BOS. At this meeting, the staff discussed using Excess ERAF (see glossary) funds over the next three years to help pay for the new facility. Given the continued declining enrollment in the NVUSD, and barring any changes in state-mandated school funding, the County believes that \$34 million in Excess ERAF funds can be put toward the new Jail.

Staff did note that two bills in the Assembly could reduce or eliminate Excess ERAF. AB2808 “would eliminate excess ERAF in Napa County.” That bill cleared the Assembly on May 31, 2018 and is now in the Senate. AB3707 “tabs ERAF as a funding source” for redevelopment. It is still in Assembly committee. Should AB2808 become law, a hole in the jail-financing plan up to \$34 million could exist.

With current cash and commitments, including state bond money and planned sale of real property, as well as the ERAF funds, the County was still facing a \$20 million budget gap. It was ultimately decided to fund the debt through COPs and Tobacco MSA funds. The BOS approved this plan at its May 22, 2018 meeting, stipulating that up to \$6.2 million in MSA reserve funds would be used for the jail, with the remaining debt financed through Certificates of Participation (COPs). The MSA funds that are received by the county on an annual basis will continue to be used for community grants.

At the May 22, 2018 BOS meeting, the County produced the following list of revenue sources to fund the Jail, which the Board approved:

<b>Source</b>	<b>\$ Amount</b>
Cash in Project	6,000,000
Current Jail Commitment	32,000,000
Projected Cash Inflows (Excess ERAF)	34,000,000
State Grants	23,000,000
Sale of Real Property	13,000,000
Debt Issuance	20,000,000
<b>Total</b>	<b>128,000,000</b>

## **Staff Secure Re-entry Facility, Timeline, and Funding**

Independent of the new jail, a groundbreaking ceremony was held for the Staff Secure Re-entry Facility in 2017. This 23,000 square-foot facility at 2300 Napa Vallejo Highway began construction in earnest in early 2018. Construction is expected to be completed in the fall of 2018, with inmate occupancy after a mandatory 3-month staff training time period.

The Re-entry Facility, classified as a Type IV facility, is designated for eligible inmates to participate in work/education furlough and/or other programs involving inmate access to the community. The Napa Department of Corrections will manage the facility security and custody concerns. Napa County Probation Department will manage training/mental health programs and other external inmate services. The partnership between Napa County's probation and corrections departments stands as a unique model recognized statewide.

In line with State goals, this facility is part of a "systematic approach to spending the funding the County receives from the State for Realignment."<sup>3</sup> This facility creates less-correctional, more-residential, staff-secure programming that would serve as a transitional step for eligible inmates moving back to the community. Additionally, the facility reduces the need for more expensive incarceration housed in the County jail. Inherently, the mission of this staff-secure facility is the ability for inmates to have flexibility to pursue work, educational, program, and social opportunities in the community to assist them in their transition out of custody. The Re-entry Facility will offer cognitive behavior programs and skill development training. This provides an opportunity for individuals to go into the community for approved purposes (i.e. jobs, classes, etc.) helping them learn how to be productive members of their community. The main goal is to reduce chances of re-offending.

Eligibility for engaging in Re-entry Facility programs will be determined jointly by DOC and Probation staff to ensure appropriate participation. Participants at the Re-entry Facility are recommended to stay at least 60 days in the facility, up to 12 months. However, for "optimal programming progression, the majority of offenders should stay in the facility for at least 180 days."<sup>4</sup>

The Re-entry Facility will have four separate wings with laundry, kitchen, and restroom features for use by the inmates. The 4 wings will provide separate housing for male, female, and other inmates separated appropriately. Inmates with employment will be allowed to work at their jobs offsite during the day. Unemployed inmates will receive job training at the facility. Substance abuse, life skills, critical thinking, anger management, and gender-specific curricula for females will be provided as well. Security features will include window and door alarms, cameras, drug/alcohol monitoring systems, and search and testing protocols to protect the neighboring community. An unauthorized "walk away" from this program will be considered an "escape."

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<sup>3</sup> Staff-Secure Facility supporting document to BOS February 26, 2013 meeting link in Bibliography

<sup>4</sup> ibid



Re-entry Facility construction progress, May 17, 2018. Grand Jury photo.

The facility was built through state lease-revenue bond funding. The County applied for funding through Senate Bill 1022, winning an award of nearly \$14 million. The remaining \$3 million came from the County’s General Fund and Realignment money.

#### **Follow-up: Correctional Officer Retention**

A significant concern with the DOC is the high turnover rate of Correctional Officer recruits. The training of replacement officers and paying overtime to cover shifts has become very costly. To address this issue, the BOS adopted Resolution 2017-160, effective October 1, 2017. This established a “Hiring and promotional incentive pilot program policy” to help fill vacancies “designated as hard-to-fill and those which require specialty trainings or degrees.” This four-year pilot program for Correctional Officers I/II—among other hard-to-fill positions—consists of 5 incentive policies:

1. A \$5,000 maximum signing bonus: paid fully after completing probation;
2. A \$750 referral bonus: paid to employees who refer qualified candidates who pass probation;
3. Advance Vacation Accrual: qualified candidates who are employed in hard-to-fill vacancies can receive credit for their prior years’ service in organizations other than Napa County;
4. Student Loan Forgiveness: Qualified candidates can receive up to \$30,000 of student loan forgiveness for a minimum of 60 college credits while employed with Napa County; and
5. Inter-agency Promotions: DOC staff in hard-to-fill positions are eligible to apply for promotions from the DOC to the Sheriff’s Department after three years of satisfactory employment.

The first Correctional Officer recruits began employment in early 2018 under this new incentive-based plan, so it is still too early to measure the program’s success.



## **Follow-up: Control Room and Basement Construction**

Napa County inmates temporarily housed in Solano County after the earthquake returned to the newly-completed basement renovation in March 2018. Simultaneously, the new control room began partial operations. Video recording systems, digital intercoms, and other security systems are now undergoing testing while new equipment is being installed. The Control Room project is estimated to be completed by July 2018. The Control Room and remodeled section of the existing jail, used for inmates awaiting court appearances, will remain in use after inmates are transferred to the new jail upon its completion.

## **FINDINGS**

The 2017-18 Napa County Grand Jury finds that:

- F1. The new jail and Re-entry Facility construction timelines and funding have been and continue to be confusing to the public.
- F2. Funding and financial instruments for the new jail are complicated; the taxpayers are not fully informed of funding sources and the effects of the options.
- F3. The Re-entry Facility will assist inmates transitioning back to the community.

## **RECOMMENDATIONS**

The 2018-17 Napa County Grand Jury recommends that:

- R1. Napa County Board of Supervisors direct appropriate staff to produce a dedicated, easily-accessible timeline on the County website that informs Napa County residents of the progress and funding of the jail by October 1, 2018.
- R2. The Board of Supervisors generate greater publicity for all proposed funding sources of financing, holding public hearings throughout the County to justify the need and rationale for the use of particular funding mechanisms by October 1, 2018.
- R3. The Board of Supervisors evaluate the pilot program after its conclusion on September 30, 2021.

## **REQUEST FOR RESPONSES**

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- Napa County Board of Supervisors; F1- F4; R1, R2

## INVITED RESPONSES

Director of Corrections; F4

## COMMENDATIONS

The Grand Jury commends the Napa County Department of Corrections and the Probation Department managements for their collaborative efforts in the construction and operation of a transitional correctional facility.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

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## **APPENDICES**

### **APPENDIX A: Napa County 2017-18 Grand Jury JAIL TIMELINE**

The Grand Jury Builds Its Own Timeline

- In 2004, the Napa Board of Supervisors created a Criminal Justice Committee (CJC) to assess the local criminal justice system and its effect on jail use.
- In 2007, the BOS adopts Adult Criminal Justice Master Plan, which includes recommendations to expand programming, job training opportunities, and planning for a new jail. The Carey Group (an evidence-based practices consultant) and “Carter Goble Lee,” (design and management services to correctional facilities) reported to county staff, making several recommendations regarding the condition of the jail and the adoption of evidence-based practices (EBP) designed to reduce recidivism.
- October 2011, the Public Safety Realignment Act of 2011 resulted in low-risk felons in State facilities be remanded to local jails. Having a more serious criminal history, they brought with them a “prison mentality.”
- In 2012 and 2013, the BOS adopted a Strategic Financial Plan, which emphasized setting aside funding for a new jail. The Community Corrections Partnership (CCP) proposed the development of a new 366-bed jail facility and a 50-bed re-entry facility.

- Sept 2013, the county purchased 27 acres at 2300 Napa/Valley Highway, adjacent to Syar Industries, for the purpose of constructing a 72-bed re-entry facility and future jail. The Staff Secure Re-entry Facility would be staffed by Probation and run by Napa County Department of Corrections.
- October 2013, the BOS applied for SB 1002 conditional funding of \$14M for design and construction of a re-entry facility. Resolution 2013-124 states county required to pay a portion of costs.
- January 2014, Napa county was awarded nearly \$14M in revenue lease bonds for constructing adult criminal justice facilities.
- August 2014 South Napa earthquake caused significant damage to downtown jail. Some inmates are sent to Solano County jail. Repairs to the building are still under construction (as of this writing).
- August 2015, Napa county applied for additional \$20M in state lease revenue bonds under SB 863 for jail construction. Resolution 2015-105.
- November 2015, the county is awarded partial funding of \$2.8 from state lease revenue bonds.
- June 2016 Election, Napa County voters turned down the quarter-cent sales tax to provide “much of the funding” for a \$103M, 256-bed jail.
- April 2017, BOS applied for SB 844 state lease revenue bond financing.
- June 2017, County officials break ground on the construction of Re-entry facility. Napa Valley Register reports facility costs are \$17M with state providing \$13.5M. Remaining money from the county’s General Fund and funds dedicated to criminal justice activities.
- 2017/18 County staff consider ways to fund the estimated gap of \$70M to pay for the new jail.
- February 2018, Napa County Department of public Works posted it was seeking statements of qualifications (SOQs) from qualified architectural firms for design services required for the construction of a new jail. Facts included in the SOQs include: 304-bed jail; completion by fall 2021; 28 beds reserved for medical/mental health; estimated project cost of \$128 million. Total funding from SB 844 and SB 863 to total \$22.8M with the balance of project costs funded through “cash and debt financing.”

- March 2018, all inmates held in Solano County Jail are returned to the completed basement section in the Hall of Justice.
- May 15, 2018, Napa County staff presents funding options to the BOS. The gap in funding is presented as \$20 million. No Board approval takes place at this meeting.
- May 22, 2018, the BOS approve the funding to include excess ERAF money, issuance of COPS up to \$20 M, MSA fund balance, and intent to use annual MSA revenue for the community grant program.
- Fall 2018, Re-entry facility estimated completion with occupancy within 90 days.
- September 2021 (present estimation) new jail completion. The basement in Hall of Justice to be occupied by inmates ready for court appearances.

## **APPENDIX B**

### **Jail Tour**

The grand jury toured the Napa County jail facility, located in downtown Napa, on November 14, 2017. Two subsequent tours allowed jury members to access areas unavailable on the initial tour. The director of the Department of Corrections conducted each tour. In general, and by its own description on the Napa County website (©2017), “the jail is an aging and deteriorating facility and it does not have many of the important facilities and services that maximize safety and health of officers and inmates.” Damage from the August 2014 earthquake is still visible.

The Napa jail inmate population on November 14 totaled 196. An additional 47 inmates were housed in Solano County’s jail as a result of the 2014 Earthquake damage. Of the 243 inmates, 200 inmates were male, 43 were female; 172 were pre-sentenced, 71 post-sentenced. Forty-two inmates were assessed as mental health inmates requiring a single cell each. The percentage of felony-convicted inmates is approximately 87 percent.

Jury members requested the tour begin at the sally port entry where a new arrestee would enter, followed by the initial booking area. Correctional officers determine risk classification in this area.

We observed both single and multi-inmate cells, as well as dormitory-style living areas. At least one cell had boat beds (plastic, canoe-shaped trays designed for sleeping) on the floors, a result of overcrowding. Cells and hallways were clean and mostly free of graffiti.

We also observed six medical cells and the medical unit staffed by California Forensic Medical Group (CFMG). On November 14, seven inmates with severe mental health issues were waiting to be transferred back to Napa State Hospital.

Kitchen and laundry areas are staffed by inmates who appeared to be performing their jobs well and efficiently.

The new Control Room, with a redundant system, has an expected completion of spring 2018. Inmates being transferred from the building to courtrooms travel through a tunnel, or corridor. There are clear lines of demarcation where inmates walk; red emergency call buttons are along the walls, here and in other sensitive areas of the jail.

There are two visitation areas, one for inmates and their attorneys, the other for general visitation. Only the conversations between attorney and client (inmates) are unmonitored. Exercise yards are empty of exercise equipment due to safety issues. Overhead netting has been installed to prevent drones from dropping contraband into the yard. Exercise time, mandated at 1 hour per inmate per day, is challenged by the need to segregate inmates by sex or gang affiliation to avoid volatile situations.

At the time of our tours, the basement was still under construction. Its estimated time for completion, which would include the return of inmates housed in Solano County, was January 2018.

We found all staff we met were collegial. While sharing knowledge of inmates, they expressed respect.

Inmate housing areas include:

- Temporary
- Observation
- General population
- Protective custody
- Maximum security
- Special housing
- Medical unit.







**NAPA COUNTY GRAND JURY  
2017-2018**

**June 14, 2018**

**FINAL REPORT**

**Empty Beds: Juvenile Hall Review**

## **Empty Beds: 2017-2018 Napa County Grand Jury Juvenile Hall Review**

### **SUMMARY**

Rehabilitation and treatment, rather than incarceration, is the primary goal of the California juvenile justice system and has been for more than half a century. This is the focus of Napa County Juvenile Hall through its organization, management, and programming.

The 2017-2018 Napa County Grand Jury toured the Juvenile Hall facility twice, each time noticing that the number of youth housed was less than 20. Since the facility is capable of housing 50 youths, the space is considerably underutilized. Many counties throughout the state find themselves in similar situations due to declining juvenile arrest and detention rates in California since 2007.

Napa County officials were approached by a neighboring county about the possibility of consolidating juvenile hall operations. While this might increase cost efficiency for the municipalities, this would cause new challenges for the juveniles in residence. Specifically, moving juveniles farther away from their homes would make family visits and transportation more difficult. It would also remove them from their local educational programs. Napa ultimately dropped the idea of consolidation. It is hoped that current and future policies and initiatives may increase the utilization of Juvenile Hall.

In an interview with management, the grand jury learned that the county-wide criminal justice computer system is now serving all of the member departments except Juvenile Hall. It is expected to be completed by fall of 2018. This custom-designed system will be beneficial to Juvenile Hall.

The grand jury finds that the activities and services provided to Napa County Juvenile Hall youth are suited to the current juvenile justice philosophy of rehabilitation, not incarceration.

### **GLOSSARY**

**BSCC [California] Board of State and Community Corrections:** Formerly Corrections Standards Authority, the BSCC was established in 2012. It is an independent statutory agency that provides leadership to the adult and juvenile criminal justice systems. It inspects for compliance of standards, in addition to several other responsibilities.

**CJCJ (Center on Juvenile and Criminal Justice):** CJCJ is a nonprofit, nonpartisan organization whose mission is to reduce society's reliance on incarceration as a solution to social problems. In pursuit of this mission, CJCJ provides direct services, technical assistance, and policy analysis that work in unison to promote a balanced and humane criminal justice system designed to reduce incarceration and enhance long-term public safety.

**EBP (Evidence-based practices):** EBP places an emphasis on achieving measurable outcomes, and making sure the services provided and the resources utilized are effective. It involves using research-based and scientific studies to identify interventions that reliably produce significant reductions in recidivism, when correctly applied to offender populations, through the use of four

principles of effective intervention. [BSCC] See also: University of California at Irvine Center for Evidence-Based Corrections. [www.ucicorrections.seweb.uci.edu](http://www.ucicorrections.seweb.uci.edu).

**Juvenile Hall** (Defined by the BSCC): A county facility designed for the reception and temporary care of youth detained in accordance with the provisions of Title 15 Minimum Standards for Juvenile Facilities and the juvenile court law.

**Proposition 64:** Effective November 9, 2016, in part, legalizes specified personal use and cultivation of marijuana for adults 21 years of age or older and reduces criminal penalties for adults. It amends existing statutes to provide that most marijuana related offenses for minors are infractions.

**SB1004, Young adults: deferred entry of judgment pilot program.** Napa, one of five pilot counties, shall allow “certain transitional age youth access to age-appropriate rehabilitative services available in the juvenile justice system when an assessment determines that the individual would benefit from the services, with the aim of reducing the likelihood of the youth continuing in the criminal justice system.”

**Youth (formerly Minor)** (Defined by Title 15, Minimum Standards for Juvenile Facilities):

“A person who is in the custody of the juvenile detention facility. This person may be under 18 years of age or over 18 years of age. This includes persons whose cases are under the jurisdiction of the juvenile court and persons whose cases are under the jurisdiction of the adult court.”

## **BACKGROUND**

As required by California Penal Code §919(b) and §921, the grand jury is charged with inquiring into the condition and management of the detention facilities within the county. Such an investigation points out issues important not only to the efficiency and collaboration within the criminal justice systems within the county, but for the benefit of the youth served by the county facility.

Napa County was one of the original counties in California when it became a state in 1850. At that time there were no correctional facilities for juveniles in California. Reform schools were the first facilities in California to house juvenile offenders. It was not until 1909 that county juvenile halls were established and Napa County opened its first juvenile hall in 1954. It was designed to house 26 detainees. Prior to the county juvenile hall, youth were sent to the Alameda Juvenile Hall.

By 2003, the facility was deemed to be old and in need of replacing. The new Napa County Juvenile Hall (NCJH) was constructed in 2004 and opened its doors adjacent to the old facility in 2005. The new 43,000 square-foot, two-story facility was a phased project that included demolition of the existing 8,200 square foot housing unit and remodel of the 8,066 square foot remaining juvenile court and probation office building.

The NCJH is run by the Probation department. It is a 24-hour/365-day secure facility with a capacity for 50 youth. The typical length of stay is from 17-24 days. Upon its completion in

2005, the facility housed an average daily population (ADP) of 40 youth, nearing its capacity. It has consistently run well under-capacity for the last decade. The NCJH considered consolidating juvenile detention facilities with a nearby county, but decided not to pursue the idea.

In February 2014, the BSCC's Juvenile Justice Standing Committee published a report detailing the principles of juvenile justice in California, including information technology (IT) systems and case management. The report concluded that modern data systems are necessary to optimize justice performance measures. Also, comprehensive data regarding operations and outcomes should be "transparent and accessible." Prior to the BSCC report, The Criminal Justice Information Management System (CJIMS) of Napa County was reviewed, and recommendations were made to upgrade the system.

While conducting our review of the NCJH, the BSCC provided its biennial final report following its inspection on December 5-6, 2017. This extensive inspection covers Title 15 Procedures and Checklist requirements, a physical plant review outlining Title 24 requirements, and a Living Area Space Evaluation (LASE). Local agency inspections, which are incorporated into the BSCC report, include county fire, building inspectors, health officers, Superintendent of Schools, and others.

## **METHODOLOGY**

### **Interviews**

- Multiple interviews with members of Juvenile Hall facility management
- Informal interviews over lunch with NVJH youth
- Informal interview with Juvenile Hall teacher

### **Tours**

Our tours included the following areas:

- Sally Port (a secure entry for youth in police/law enforcement vehicles)
- Control Desk
- Outside Recreation Area
- Kitchen
- Library and Classroom
- Occupied Youth Housing/Dining Area
- Unoccupied Youth Housing/Dining Area
- The "Rewards Store" (an in-house canteen where youth can exchange behavior-points for toiletries or other items)
- Video Psychiatric/Treatment Counseling Room
- Holding Area

## **DOCUMENTS REVIEWED**

See Bibliography at the end of this report

## **DISCUSSION**

The 2017-2018 Napa County Grand Jury took a fresh look at the current state of and potential changes to the Napa County Juvenile Hall. State laws regarding marijuana and its use/possession along with statewide measures now focusing on rehabilitation—as opposed to incarceration—have recently changed. The Napa County Grand Jury initiated its investigation with no predispositions. An extensive document review was followed by two tours of the Napa County facility; several interviews with management and mid-management level employees; interviews with educators; and open discussions over lunch with several juvenile hall youth.

### **Grand Jury Facility Tour**

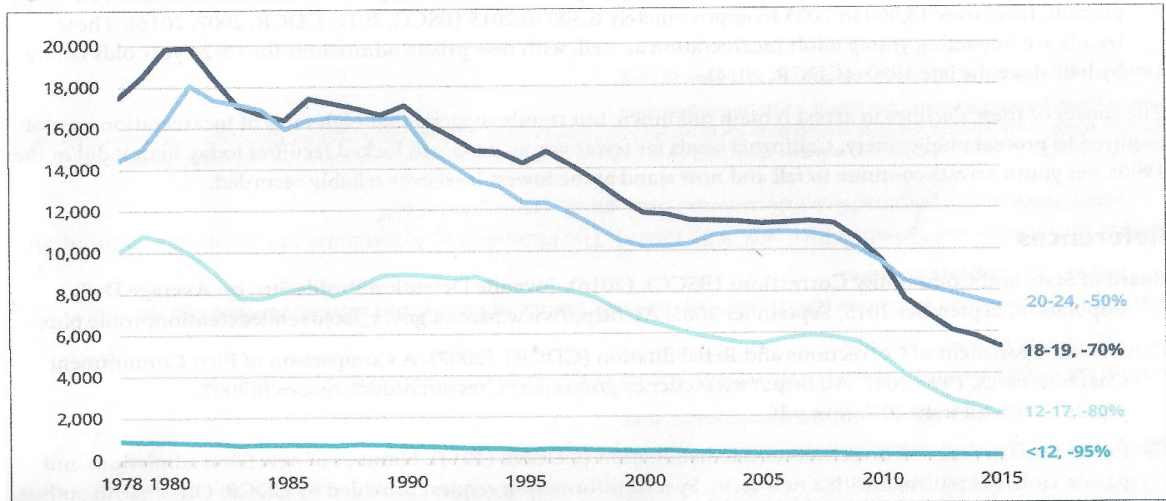
Grand Jurors noted NCJH youth artwork decorating the public entrance to the facility. The grand jury found the employees extremely professional and dedicated to youth rehabilitation. All staff appeared to be working toward the same goal: youth success. Every juvenile hall employee interviewed displayed integrity, coupled with educational and professional experiences specific to youth rehabilitation.

Employee policy and facility operations manuals were kept in plain view for all employees to reference. The youth classroom was furnished with up-to-date and clean desks, video monitors for educational programs, a large Promethean/Smart Board, and decorated with vibrant colored student art. During both tours, the facility was well below maximum capacity with fewer than 20 youths housed.

### **NCJH Unused Capacity/Space Issues**

The low number of youth housed at Juvenile Hall is not a situation unique to Napa County. The juvenile arrest rate for California youth ages 10 to 17 has experienced a steady decline since 2007. Since then, California has passed a series of bills that focus on rehabilitation rather than punishment, as well as reduced criminal penalties.

**Figure 1. Trends in the arrest rates of Californians under age 25, 1978-2015**



Sources: DOJ (2011, 2015, 2016, 2016a). Notes: Population for youth ages 10-11 are used to calculate rates for the under age 12 category.

1

Statistics maintained by the BSCC for Napa County, Publicly Accessible Data Sets, reported by law-enforcement agencies in Napa County indicate that the arrest rate of 10 to 17-year-olds dropped from 469 arrests in 2011 to 258 in 2016, a 45% decrease.<sup>2</sup>

Similarly, the BSCC finds that juvenile facility populations statewide also continue to decline.

The Napa County Juvenile Justice Crime Prevention Act and Youthful Offender Consolidated Annual Plan 2017 reports that in 2009, ADP at Napa County Juvenile Hall was 43. This number has declined nearly every year since to an ADP of 18 in 2016, a 58% decrease.

**Eight Year Arrests/ADP Census Chart**

Year	Total Juvenile Arrests	Juvenile Hall ADP	#Youth on Probation
2009	420	43	
2010	426	36	567
2011	367	30	373
2012	322	25	306
2013	239	22	297
2014	243	24	257
2015	195	19	238
2016	Not available	18	232

Table abstracted by Napa Grand Jury

<sup>1</sup> "California's Youth and Young Adult Arrest Rates Continue a Historic Decline." Mike Males, Ph.D., Senior Research Fellow, Center on Juvenile and Criminal Justice. August 2016.

<sup>2</sup> California Department of Justice's *10 Year Arrest Data 2006-2015* (<https://openjustice.doj.ca.gov/data>)

The grand jury recognizes differences in the reported numbers of juvenile arrests, attributed to discrepancies in the reported sources; however, they clearly show that both juvenile arrests and average daily population are declining.

### **NCJH Unused Capacity/Space Issues**

The Napa County Grand Juries are annually tasked with inquiring into the condition and management of NCJH. While prior Napa County Grand Jury reports have not discussed the declining ADP, the 2014-2015 Marin County Grand Jury considered contracting with surrounding counties to address the low facility-to-youth space ratio. According to the Marin County Grand Jury, first impressions of this plan seemed operationally and financially sound. Upon closer review it was determined that transport time and cost would increase significantly and youth would be housed relatively far away from their family and friends. Additionally, youth who already attend their local schools would no longer be able to do so and increased distances from home would reduce family visit opportunities. Ultimately, it was determined that contracting out with neighboring juvenile facilities was neither practical nor in the best interests of their youth.

The NCJH management discussed a potential consolidation with Marin County, but ultimately agreed with their Marin counterparts about the negative consequences of such a move. In addition to the reasons stated above, NCJH management's overwhelming concern continues to be that more-hardened offenders would negatively affect the less criminally-sophisticated youth commonly dealt with in Napa County.

### **Forecasting Facility Needs**

While the declines in ADP and recent juvenile arrests may suggest a need to downsize the Napa County Juvenile Hall in the name of efficiency, NCJH leadership is uncertain about the future housing needs due to the dynamic legal changes at the state level.

Napa County was chosen as a pilot county for SB 1004, Transitional Aged Youth (TAY) Project. This program requires 18-20 year-old adults to be housed separately, but inside one of the existing Juvenile Hall units for special training and life skill development. While this program is in its early stages of implementation, space will be needed to accommodate the program's housing requirements. Future statewide rehabilitation initiatives may also require additional space for operation.

### **Outdated IT/Case Management System**

Since the spring of 2009, a countywide review/upgrade of the Criminal Justice Information Management System (CJIMS) has been underway. In February 2014, the BSCC's Juvenile Justice Standing Committee published a report detailing the principles of juvenile justice in California, including IT systems and case management. Key tenets of the BSCC's report include: "Juvenile justice performance measures at all levels of intervention must be supported by adequate, modern data systems." Tenets also include that "Comprehensive aggregate data on



the caseloads, operations, costs, and outcomes of the California juvenile justice system, at the state and local levels, should be transparent and accessible to policymakers, stakeholders, and members of the public.”

CJIMS was built on software platforms that are no longer supported and do not possess the sophistication of a modern criminal justice IT system. CJIMS was not capable of incorporating the general principles of the 2014 BSCC Juvenile Justice Committee. The County Sheriff’s department, Superior Court, Adult Probation, and other members of the Napa criminal justice system have implemented the new records system, CJNet. However, Juvenile Probation/NCJH has not. Full implementation by the NCJH is expected by September 2018, at which time separate case management and data systems will be fully integrated, capable of sharing and measuring juvenile-justice outcomes.

### **Programming**

Several initiatives and programs have been started to help train NCJH youth life skills and behavior modification. A new and successful program is “Thinking for Change.” This evidence-based program addresses cognitive behavioral issues, discusses these issues with participants, and teaches new skills for conflict resolution.

Other programs taught or administered by NCJH’s specially-trained staff include therapy dogs; arts programs; and substance abuse education, including treatment, and tutoring. A new culinary arts program is planned, which will teach life skills and provide potential career training. This program will incorporate the existing and fully-outfitted kitchen facility at the NCJH and aligns with the local tourist economy.

Social awareness programs include Aggression Replacement Therapy (ART); Thinking for a Change; Art Appreciation; Gang Awareness; Planned Parenthood; Life Skills; and the Mariposa Program, which focuses specifically on life skills for girls. Staff counselors set and assess targeted goals tailored to individual youth case plans. During grand jury interviews with NCJH youth, it was determined that positive experiences occurred with their counselors, unit managers and staff, with interactions often on a first-name basis.

Operationally, the Napa County Juvenile Hall was noted by the BSCC to have a full schedule of youth engagement activities with services provided by various staff member specialists. Educationally, the Napa County Office of Education’s Crossroads School educators were noted by the BSCC to “go above and beyond to assist youth during school hours and after school, including assisting youth with tutoring for credit recovery.”

## **FINDINGS**

The Napa County Grand Jury finds that:

- F1. A multi-county consolidation of juvenile detention facilities is not optimal for serving Napa County youth.
- F2. Present and future state initiatives may increase the utilization of the NCJH facilities.
- F3. With the September 2018 implementation of CJNet in the Napa County Juvenile Hall, juvenile justice information technology will be fully integrated with the county's criminal justice system.
- F4. NCJH programming aligns with the current juvenile justice philosophy of rehabilitation as opposed to incarceration.

## **RECOMMENDATIONS**

The Napa County Grand Jury recommends that:

- R1. No later than December 31, 2018, the BOS commission a study to determine whether excess Juvenile Hall physical capacity and staffing above near-term projected needs can be put to an alternate use. The results of the study should be published.

## **REQUEST FOR RESPONSES**

Pursuant to Penal Code section §933.05, the Napa County Grand Jury requests responses:

From the following governing body:

- Napa County Board of Supervisors: **F1-F4, R1**

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**NAPA COUNTY GRAND JURY  
2017-2018**

**June 25, 2018**

**FINAL REPORT**

**IMPLEMENTATION REVIEW  
2012 - 2016**

## 2012 -2106 IMPLEMENTATION REVIEW

June 22, 2018

### SUMMARY

The 2017-2018 Napa County Grand Jury reviewed the governmental agency response to the recommendations contained in the final reports prepared by the 2012-2013, 2013-2014, 2014-2015, and 2015-2016 Grand Juries. Where these responses indicated future action (i.e., “the recommendation has not yet been implemented, but will be implemented in the future” or “the recommendation requires further analysis”), the Grand Jury requested that the appropriate agency provide an updated status.

With minor exceptions, the requested updates were provided. The initial Grand Jury recommendation, the initial agency response, and the updated responses are provided in Appendices A through D to this report.

Not all the updated responses adequately addressed the status of the initial response. In at least one case, the agreed-to action has not yet been completed. The Grand Jury found that, in many cases, the initial agency comments did not comply with the specific requirements of the Penal Code. The Grand Jury also found that wording of its recommendations could, in general, be improved.

### BACKGROUND

California Penal Code § 916 requires “...that all problems identified in a [grand jury] final report are accompanied by suggested means for their resolution.” The identified problems and suggested resolutions are identified in a report as “Findings” and “Recommendations.”

Section 933(c) of the Penal Code specifies in part:

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court...

Each grand jury reviews the responses to the previous year’s reports to verify that they have been submitted in the required time frame and are in the proper format. The 2017-2018 Grand Jury Final Report entitled *Review of Responses to the 2016-2017 Grand Jury Reports* documents the current jury’s review.<sup>1</sup>

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<sup>1</sup> This report can be found at <http://www.napacourt.com/grand-jury/reports-response%202017-2018, Grand Jury, 2017-2018, Review of Responses>

The Penal Code, however, neither requires responding agencies to report when or how a “future” recommendation has been implemented nor does it require the responding agency to report the results of the promised “further analysis.” The agencies do not report this information to the grand jury or to the public. For this reason, the 2017-2018 Grand Jury voted to investigate the status of agency responses to the 2012-2013, 2013-2014, 2014-2015, and 2015-2016 Grand Jury Reports in which the agencies indicated future action was required.

This report details the completion status of an agency response where an agency “agreed” with a recommendation or promised “further analysis.” The Grand Jury does not opine on the nature or merits of the agencies’ promised future action.

## **METHODOLOGY**

Section 933.05 of the California Penal Code specifies in part that “...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 timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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 timeframe 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.”

Sub-paragraphs (2) and (3) above denote future action. Each response to the recommendations identified in the reports for the subject four years was reviewed. With minor exceptions, where the response of the person or entity indicated future action, the Grand Jury requested that the person or entity update the status of their initial response. These requests were initiated by letter which included the final report Recommendation and the initial response which had been submitted to the presiding judge.

## **DISCUSSION**

Each grand jury issues a series of reports reflecting the areas of government investigated during their grand jury term (i.e., July 1 – June 30). For reports issued early in the grand jury’s term, responses may be received while the requesting grand jury is still in session. More often, the formal responses are received during the subsequent grand jury’s term. In either case, the status of “future action” items are not reported. This Grand Jury elected to review responses to reports issued by the 2012-2013 through the 2015-2016 Grand Juries.

The Grand Jury’s effort to ascertain the status of “future action” items was hampered to a degree by the Napa County Board of Supervisors’ decision, in some cases, to lump together more than

one recommendation in its response and/or apparently to rewrite the initial response by way of an update. In addition, several agencies that responded individually to an original grand jury report apparently deferred to the Board of Supervisor’s updated response.

The above notwithstanding, it appears that in general, the “future action” items were completed. The District Attorney’s implementation of Recommendation No. 5 of the 2012-2013 Grand Jury’s report on the Napa County Sheriff Coroner Services Operations (see Appendix A) was to have been completed by December 31, 2013. The District Attorney’s updated response, October 31, 2017, reported that “we are optimistic that the digital evidence module may be incorporated into CJNET by December 31, 2018.”

**SUMMARY**

Overall, the Grand Jury is gratified to find that agencies responding to grand-jury recommendations have followed-up and implemented those recommendations as this report reflects.

<b>AGENCY</b>	<b>2012-2013 Update</b>	<b>2013-2014 Update</b>	<b>2014-2015 Update</b>	<b>2015-2016 Update</b>
Auditor-Controller	Y	N/A	N/A	N/A
Board of Supervisors	Y	Y & N	Y & N	N/A
Chief Probation Officer	Y & N	N/A	N/A	N/A
City of Calistoga	N	N/A	N/A	N/A
City of St. Helena	Y & N	N/A	N/A	N/A
City of Napa	N/A	N/A	N	N/A
County Counsel	Y	N/A	N/A	N/A
District Attorney	Y & N	N/A	N/A	N/A
Health & Human Services	N/A	N/A	Y	N/A
Napa City Manager	N/A	Y	N/A	N/A
Napa County Fire Chief	N/A	N/A	N	N/A
Napa County Executive Officer	N/A	N/A	N	N
Napa Valley Transportation Authority	N/A	Y	N/A	N/A
Recorder County Clerk	Y & N	N/A	N/A	N/A

<b>AGENCY</b>	<b>2012-2013 Update</b>	<b>2013-2014 Update</b>	<b>2014-2015 Update</b>	<b>2015-2016 Update</b>
Registrar of Voters	Y	N/A	N/A	N/A
Sheriff	Y	N/A	N/A	N/A
Tax Collector	Y	N/A	N/A	N/A

Note: N/A = Not Applicable

### **FINDINGS**

F1. Napa County agencies that agreed to implement Grand Jury recommendations in years 2012-2013 through 2015-2016 did so with minor exception.

### **RECOMMENDATIONS**

R1. Napa County agencies that are required or invited to respond to future Grand Jury recommendations do so in accordance with the provisions of Penal Code section 933.05.

### **APPENDIXES**

Appendix A, 2012-2013 Updated Responses

Appendix B, 2013-2014 Updated Responses

Appendix C, 2014-2015 Updated Responses

Appendix D, 2015-2016 Updated Responses



**APPENDIX A**  
2012-2013 REPORT RESPONSES

I. Integrity of Grand Jury Investigations

- A. Recommendation No. 1 was: That the County Board of Supervisors, the City Council of each incorporated jurisdiction, the County Counsel, and every publicly elected official not under the authority of the foregoing provide instructions to all county employees within their jurisdiction regarding their duties and responsibilities toward the Grand Jury process and that said instructions be completed prior to the end of this calendar year.

1. *Auditor Controller*

**Initial response (2013):** The County Board of Supervisors adopted a Code of Ethics in 2005. This document is discussed and provided to all new employees and is available to all employees on both the County's internal and external websites. I agree to review this document with my staff at a minimum annually and this year I will emphasize the importance of it in the context of Grand Jury investigations.

**Updated response (2017):** The Auditor-Controller meets with staff regularly during the year and at least annually. She discusses their role, expectations and confidentiality of their discussions with the Grand Jury.

2. *County Counsel*

**Initial response (2013):** I agree to implement this recommendation in County Counsel's office this year.

**Updated response (2017):** The Office of County Counsel and its attorneys and staff are of course well aware of their responsibilities and the duties of County departments in the context of responding to Grand Jury inquiries and requests. County Counsel prepared and provides the attached instructional documents to clients and staff (attached in their current form; updated periodically as needed). County Counsel attorneys keep apprised of the legal requirement for responding to Grand jury inquiries and do so without any formally designated annual training within the office itself.

3. *District Attorney*

**Initial response (2013):** I agree to implement this recommendation this year.

**Updated response:** None

4. *Mayor, City of Calistoga*

**Initial response (2013):** The City of Calistoga agrees to implement this recommendation prior to the end of the calendar year.

**Updated response:** None

5. *Mayor, City of St. Helena*

**Initial response (2013):** The City of St. Helena agrees to implement this recommendation prior to the end of the calendar year.

**Updated response (2018):**

The City has no institutional memory of its follow-up to Recommendation No. 1, now five years in the past. The City responds to Grand Jury information requests in accordance with law. If the current Grand Jury has “best practices” for formal responses to Grand Jury inquires, it would be appreciated if you would provide a copy. The City will take them into consideration when next called upon to respond to a Grand Jury inquiry. Further, if there are such “best practices,” it is respectfully suggested that they be attached to any future inquiry from the Grand Jury.

6. *Napa County Sheriff*

**Initial response:** I agree to implement this recommendation this year.

**Updated response:** All Sheriff’s Office personnel are provided, via County email, instructions regarding duties and responsibilities toward the Grand Jury process. These instructions are provided annually.

7. *Treasurer – Tax Collector*

**Initial response (2013):** I agree to implement this recommendation this year before the end of this year.

**Updated response (2017):** Consistent with that response, those County employees that work under my supervision were trained on Grand Jury protocol at a November 7, 2013 staff meeting.

II. Public Employment Retirement

- A. Recommendation No. 3 was: Develop plans to control future health care costs including the concepts advocated by the Government Finance Officers Association (GFOA) of accessing increased-deductible or higher co-pay insurance plans.

1. *Board of Supervisors*

**Initial response (2013):** The recommendation requires further analysis. The County will continue to work with CalPERS, our health insurance provider, to identify options for controlling employee health care costs in the years ahead. With the implementation of the Affordable Care Act over the next few years, the County must meet increasingly complex criteria when providing employee health insurance, including minimum value and affordability tests. Developing cost effective approaches to providing quality employee health benefits will be a priority for the County and other employers in the years ahead.

**Updated response (2017):** Together with County staff, the Board continues to analyze the costs of the County’s employee health and retirement benefits. As part of negotiations with bargaining groups, the Board works toward a fair and equitable benefit package that provides the ability to recruit and retain qualified employees. In addition, as

part of the budget preparation process each year, staff reviews Other Post Employment Benefit (OPEB) charges, health insurance increases, and retirement costs to make funding recommendations to the Board. Regarding Recommendation No. 6, litigation has not been conclusive, however; staff continues to monitor the situation and will make recommendation(S) as warranted when more information becomes available.

**NOTE:** This response apparently applies to Recommendations 3, 4, and 6.

- B. Recommendation No. 4 was: Implement a side-fund to offset the risk of overly optimistic discount rate assumptions by CalPERS, if a budget surplus or another opportunistic funding source becomes available.

*1. Board of Supervisors*

**Initial response (2013):** The recommendation requires further analysis and would likely require negotiation with employee labor representatives because of the County's cost sharing formulas.

**Updated response (2017):** See II.A.1. Updated response above.

- C. Recommendation No. 6 was: If favorable rulings result from federal bankruptcy proceedings concerning California jurisdictions, investigate freezing earned pension benefits of active employees who were beneficiaries of the SB400 retroactive formula enrichments and reset to the lower formulas in effect when the employees joined the County.

*1. Board of Supervisors.*

**Initial response (2013):** The recommendation requires further analysis. There continues to be significant debate as to whether an employer can reduce previously agreed to pension benefits. Any future reduction in benefits would likely require negotiation with employee labor representatives before a change could be made and would almost certainly face significant legal challenges.

**Updated response (2017):** See II.A.1. Updated response above

III. Napa County Jail

- A. Recommendation No. 1 was: It is recommended that the NCDC and Probation fully define recidivism and work with Napa County Information Technology Services to extract meaningful information concerning past recidivism in order to gauge success of ongoing alternative programs. This should be implemented by IQ2014.

*1. Chief Probation Officer*

**Initial response (2013):** The recommendation has not yet been implemented, but is in the process of being implemented. The Criminal Justice agencies have defined recidivism as being a new conviction. Additionally, the tracking of violations of probation is also part of recidivism, but tracked separately to provide more detailed analysis. In order to evaluate programs and monitor trends in the criminal justice population, there has been an extensive project to

develop a new County-wide criminal justice information management system. This has been a collective project of the Criminal Justice Department Directors, Chief Information Officer, and County Executive Office. It is anticipated that implementation will occur by the end of fiscal year 2014-2015.

**Updated response:** None

#### IV. Napa County Election Division

- A. Recommendation No. 1 Was: The Napa County Board of Supervisors change the elected status of *ex officio* Registrar of Voters to an appointed office.

1. *Board of Supervisors*

**Initial response (2013):** The recommendation requires further analysis. On September 15, 2009, the Board did an extensive review of the Election Division and concluded that it was more cost effective and efficient to remain as an elected position.

**Updated response (2018):** The Board completed its analysis. In May of 2013, the Board concluded that it was more cost effective and efficient to have the Registrar of Voters remain an elected position. In October of 2013, the Board discussed election processes with Mr. Tuteur. No advisory body was created. The County's facility master plan (Dated December 2010) priority is replacing the existing jail. However, the facility master plan continues to envision a consolidation of a number of general government functions including the Election Division when funding becomes available. This plan includes more space for storing and processing ballots, and easy public access.

**NOTE:** This update apparently covers Recommendations 1, 2, and 9.

- B. Recommendation No. 2 was: Upon establishment of an appointed Registrar of Voters, the Napa County Board of Supervisors should establish an oversight committee of Napa County voters that would be charged with monitoring the performance and procedures of the Registrar of Voters.

1. *Board of Supervisors*

**Initial Response (2013):** The recommendation requires further analysis. At its meeting on October 22, 2013 the Board will discuss the establishment of an advisory body however it is important to note that the body will be charged with making recommendations to the Board of Supervisors -the delegation of oversight responsibilities cannot be abdicated under current law.

**Updated response (2018):** See IV.A.1 updated response above.

Recommendation No. 3 was: The Napa County Election Division publishes periodic interim election results in addition to the initial voting results on Election Day.

1. *Recorder County Clerk*

**Initial response (2013):** This recommendation requires further analysis. The

Registrar of Voters is conducting a survey of the 16 counties which use the same ballot tabulation and vote reporting system. The results of that survey will be reported to the Board of Supervisors at a study session on October 22, 2013. Following that session, the Registrar of Voters will review the current policy on not releasing interim results between the election night result and the final certified result.

**Updated response (2017):** 11-7-2017 Following an October 22, 2013 Study Session with the Napa County Board of Supervisors, the Election Division began releasing interim election reports beginning with the June 3, 2014 Statewide Primary Election:

June 3, 2014:  
Election Night Reports  
6/11/2014 1st Interim Report  
6/16/2014 Final Certified

June 7, 2016:  
Election Night Reports  
6/14/2016 1st Interim Report  
6/23/2016 2nd Interim Report  
6/29/2016 Final Certified

November 4, 2014:  
Election Night Reports  
11/14/2014 1st Interim Report  
11/19/2014 Final Certified

November 8, 2016:  
Election Night Reports  
11/16/2016 1st Interim Report  
11/23/2016 2nd Interim Report  
11/30/2016 Final Certified

Napa County is a pilot project for the Voter's Choice Act (VCA) for the June 5, 2018 Primary Election which will bring several changes for Napa County voters including an impact on how interim election reports are released. The major changes are that all voters will receive vote by mail ballots; polling places will be replaced by vote centers; eligible citizens will be able to register to vote up to and including Election Day. With vote centers replacing polling places, there will not be a delivery of polling place ballots on Election Day after the close of polls at 8:00 p.m. on Tuesday June 5, 2018. Thus, there will only be a release of results from vote by mail ballots processed through noon Saturday June 2 at 8:01 p.m. on Election Night. This first release of results usually accounts for approximately 50% of all ballots that will be cast in the election.

The Election Division will then begin releasing a series of interim results over the days following the election as vote center and vote by mail ballots received and processed after noon on Saturday June 2 are counted. We expect the rolling release of results to continue through final certification of the results which must be within 30 days of Election Day, i.e. by July 5, 2018. We expect to complete our certification before that deadline as in past years.

- C. Recommendation No. 7 was: The Registrar of Voters publish the voter information pamphlet on the Election Division website.

*1. Registrar of Voters*

**Initial Response (2013):** The recommendation requires further an analysis. The

Registrar of Voters has been reviewing the publication of voter information pamphlet on the election division website in a manner so that each voter can access the correct voter information pamphlet in the language they have requested. We will survey those counties that do publish their sample ballot pamphlets to see how many voters access the pamphlet on those websites. We will make a final decision on this recommendation prior to December 1, 2013.

**Updated response (2017):**

The Napa County Election Division will publish sample ballot material for the June 5, 2018 Primary Election on our website approximately 45 days prior to the election, i.e. April 23, 2018. The actual publication date will depend on receipt of the sample ballot material from our typesetter.

- D. Recommendation No. 9 was: Napa County Board of Supervisors establishes an election office facility with more space for storing and processing ballots and easier access for the public.

*1. Board of Supervisors*

**Initial response (2013):** The recommendation requires further analysis. The County's facility master plan envisions a consolidation of a number of general government functions including the Election Division. The Board of Supervisors has prioritized the various components of the master plan placing the jail and the Health & Human Services Agency campus first with other space considerations taken into account as funding and conditions become available.

**Updated response (2017):** See IV.A.1 updated response above.

*2. Recorder – County Clerk*

**Initial Response (2013):** This recommendation requires further analysis. The Registrar of Voters is conducting a survey of the 16 counties which use the same ballot tabulation and vote reporting system. The results of that survey will be reported to the Board of Supervisors at a study session on October 22, 2013. Following that session, the Registrar of Voters will review the current policy on not releasing interim results between the election night result and the final certified result.

**A. Updated Response (2017):** See IV.A.1 updated response above.

*3. Recorder – County Clerk*

**Initial Response (2013):** The recommendation requires further analysis. The Registrar of Voters has been reviewing the publication of the voter information pamphlet on the election division website in a manner so that each voter can access the correct voter information pamphlet in the language they have requested. We will survey those counties that do publish their sample ballot pamphlets to see how many voters access the pamphlet on those websites. We will make a final decision on this recommendation prior to December 1, 2013.

**Updated Response:** None

V. Napa County Sheriff Corner Services Operations

- A. Recommendation No. 1 was: The Coroner's Division immediately begin a program of entering data from the old system of typewritten index cards into the current computerized system.

1. *Sheriff's Department*

**Initial Response (2013):** I agree with this recommendation. The Coroners Division will develop a process to enter older cases into the database and eliminate the step of typing an index card. The index card system has been maintained strictly as a back-up should the computerized database fail. All data has been entered into the database for the past several years.

**Updated response (2017):** The Sheriff's Office agreed with the response and the Coroners Division no longer maintains a typewritten index card system. All information is maintained by a computerized database.

4. Recommendation R2 was: The NSO seek assistance, as appropriate, from the BOS, the Napa County Executive Office, and/or County Counsel to secure an agreement with a third-party credit/debit card merchant service to allow the NSO to accept credit and debit cards for payment of fees and services and pass related costs to the customer.

1. *Sheriff's Department*

**Initial response (2013):** I agree with this finding. The NSO will begin the process immediately with the Napa County Executive Office to secure an agreement with a third party credit/debit service to allow the NSO to accept credit and debit cards for payment of fees and services.

**Updated response (2017):** The Napa Sheriff's Office now accepts credit and debit cards for payment of fees and services.

5. Recommendation R3 was: The NSO, County IT and the NSO budget analyst work together to develop a cost benefit analysis for a secure server with the state-of-the-art software to store, index, manage and retrieve crime scene photographs that are now routinely stored on CDs.

1. *Sheriff's Department*

**Initial response (2013):** I agree with this finding. We recognize that the CD storage system is not ideal, but it does provide a secure and stable storage system for photograph files for the time being. We are currently researching various systems and vendors providing digital evidence storage, and are already using server-based storage for some video evidence. This is a growing field with technology improving and changing daily almost a daily basis. We are striving to find a long-term, sustainable and secure system with back-up(s) that will provide a method of storing this type of evidence in a manner compliant with the Evidence Code.

**Updated response (2017):** The Napa Sheriff's Office now stores all digital media (crime scene photos and videos) on a secure server which is in compliance with the Evidence Code.

6. Recommendation No. 4 was: The NSO develop full documentation of policy and procedures for the collection and preservation of DNA evidence. This documentation should include the currently used standard operation procedures for handling DNA evidence.

*1. Sheriff's Department*

**Initial response (2013):** I agree with this finding. It has always been the policy of Department Crime Lab to use the most current and up to date procedures for the collection and preservation of DNA evidence. A formal Lab Policy Manual is currently being prepared which will include recommended procedures recommended by California DOJ and the Journal of Forensic Identification for handling DNA evidence.

**Updated response (2017):** The Napa Sheriff's Office has developed and implemented policies and procedures for the collection and preservation of DNA evidence. Additionally, employees receive continued training in the proper collection and processing of DNA evidence.

7. Recommendation No. 5 was: That no later than December 31, 2013, the NSO and District Attorney's office develop a joint policy and procedure which effectively obtains and enforces proper court orders for appropriate destruction of evidence in NSO custody in cases either fully adjudicated, dismissed or beyond the statute of limitations.

*1. District Attorney*

**Initial response (2013):** I agree to implement this recommendation this year. Our office has already created a form for all law enforcement agencies to request destruction. Once the form is received by our office, our Chief Deputy District Attorney reviews and, as appropriate, signs the form and requests a court order to proceed with evidence destruction. This order and process will be integrated into CJNET, the county's case management system accessible by both NSO and the District Attorney. We will develop a joint policy and procedure within this framework by December 31, 2013 as requested.

**Updated response (2017):** Prior to December 31, 2013, the Napa County District Attorney's Office improved the manual process by which NSO was assisted with evidence destruction. Additionally, the DA's Office agreed to integrate an automated evidence management module into the CJNET case management system. We have spent significant time working with NSO to improve our analogue tracking system with our intent to have this integrated into our computerized case tracking system by January 1, 2014. While the manual process is significantly improved, unfortunately other priorities (such as adding Napa County Department of Corrections and Napa County Probation to the system) of the coding team (who work for a different County Department) responsible for implementation of the evidence module delayed the



evidence component from being incorporated as intended. Due to finite resources such as funds and staffing, the automated process remains a work in progress. While integration of the evidence system remains an important priority, adding the Juvenile Justice component to CJNET has a higher priority (due to the legacy system nature of the software). At this time we are optimistic that the digital evidence module may be incorporated into CJNET by December 31, 2018.

## *2. Sheriff's Department*

**Initial response (2013):** I agree with this finding. The backlog of destruction orders awaiting approval witnessed by the members of the Grand Jury during their investigation has been cleared and the items are being processed out of the Property/Evidence room at this time. Working with the District Attorney's office, we have gone to a more stream-lined process of smaller orders over time instead of large orders a few times a year. The current turn-around time for an order is 2 to 3 weeks. The District Attorney's office is working on a process that should dramatically reduce the need for processing these orders through their office. The NSO will continue to work with the District Attorney's office to develop a procedure by December 31, 2013.

**Updated response (2017):** The Sheriff's Office, along with the District Attorney's Office has implemented this recommendation.

**APPENDIX B**  
2013-2014 REPORT RESPONSES

I. NCTPA Vine: Management & Ridership for the Future

- A. Recommendation No. 3: The Grand Jury recommends the BOD to explore ways to improve NCTPA management retention such as merit pay or other incentives, and put in place for the coming fiscal year.

*1. NCTPA*

**Initial response (2014):** This recommendation requires further analysis. The NCTPA Board appreciates the Grand Jury's suggestion and will take it under advisement. It should be noted, however, that the agency has been existence since 1998 and has only had four executive directors in its 16 year history; and two of them retired from NCTPA.

**Updated response (2018):** In response to your specific inquiry, you refer to Recommendation No. 3 of the above-mentioned report which "recommends that the BOD to explore ways to improve NCTPA management retention such as merit pay or other incentives and put in place for the coming fiscal year." In our response we underscored the managerial stability of the agency by noting that the agency had been in existence since 1998 and that there were only four executive directors in the agency's 16-year history. Two of the executive directors retired from the agency, one resigned and the fourth executive director is still with the agency. Nevertheless, the agency has made several changes that will help retain and advance staff and draw new employee talent to the agency. First, in 2017 two "director" level management classifications were added and two internal employees were promoted into the new positions overseeing Planning, Projects, and Programs and Accounting, Policy, and Administration. Second, the executive director has informed the chair and vice chair that staff is working on improving employee medical retirement benefits. Third, I have discussed with the Chair and the Vice Chair my concern about being able to fill the engineering manager position at its current salary level. The position will be open this fall when the current engineering manager retires. The position has been posted with an open salary. It should be noted that the latter two items have not yet been approved by the board, but they are scheduled to be heard by the Board this spring or early summer.

- B. Recommendation No. 8 was: NCTPA should implement within the current fiscal year a coordinated VINE marketing strategy with each Napa County jurisdiction so that NCTPA's transit services are readily available and consistently communicated across all public, community and visitor websites.

*1. NCTPA*

**Initial response (2014):** This recommendation will be implemented within 90 days. NCTPA will work with the jurisdictions and visitor sites and request that information about the VINE and its ancillary services are consistently communicated. It should be noted that NCTPA has no authority to demand that Napa's jurisdictions or its visitor sites comply with this request.

**Updated response (2018):** Your second request refers to Recommendation No. 8 of the above-mentioned report which recommends implementation of "a coordinated VINE marketing strategy with each Napa County jurisdiction so that NCTPA's transit services are readily available and consistently communicated across all public, community and visitor websites." At the time, NVTAs staff contacted each of the jurisdictions and requested that they make corrections. A recent scan of each of the 6 jurisdictions' sites indicate that some of the jurisdictions maintain a link to NVTAs and profile the Vine system but others do not. We sent the jurisdictions a request to add the Vine to the appropriate pages just prior to sending this letter. Since the report was originally published, the agency also created a marketing and communications position. That position is currently open, but we will make sure that the staff member is on top of coordinating marketing efforts with the jurisdictions when the position is filled.

## II. Veteran's Service and Outreach

- A. Recommendation No. 1 was: The Napa CVSOS should set a goal of scheduling a meeting with a veteran within a two-week period.

### *1. Board of Supervisors*

**Initial Response (2014):** The recommendation has not yet been implemented, but will be implemented in the future. With the addition of a new Veterans Representative staff person, the CVSOS anticipates being able to reach this goal within one year (no later than April 2015).

**Updated response (2017):** This recommendation has been implemented. The Napa CVSOS now sees veterans within two weeks of a request for a meeting unless a later date is requested. This has been the case since the beginning of 2015. The Veterans Representative position became vacant in August 2017 which will result in a temporary potential of a longer waiting period until the position is filled and the new Veterans Representative is trained.

- B. Recommendation No. 2 was: The Napa CVSOS should develop an outreach program that ensures that veterans in Napa County are fully aware of its services, including that it will make home visits.

### *1. Board of Supervisors*

**Initial Response (2014):** The recommendation has not yet been implemented, but will be implemented in the future. The VSO had previously done only limited outreach, due to low staffing levels. With the new Veterans Representative hired, the VSO will more frequently attend events and arrange presentations throughout Napa Valley. In addition to outreach, the VSO anticipates being more available to perform home visits as the Veterans Representative takes on an increasing workload over the next year.

**Updated response (2017):** This recommendation has been implemented. The Napa CVSOS regularly conducts outreach including a monthly Vet Connect program with a dozen local agencies providing assistance to veterans. Attendance has average averaged about eight veterans per month. The Napa CVSOS opened a

satellite office in Calistoga in 2016 but discontinued the program in August 2017 due to lack of attendance. The Napa CVSO continues to provide local meetings with veterans as requested in the upper Napa Valley and in American Canyon. The Napa CVSO also conducts a monthly orientation to veterans' benefits with an average attendance of 10 veterans and dependents. The Napa CVSO has a monthly column in the Napa Register ("Vets 2 Vets") and related area on-line newspapers discussing veterans' benefits and issues. The Napa CVSO regularly conducts home visits to assist veterans and their surviving spouses with information, referral and development of VA claims for benefits.

- C. Recommendation No. 3 was: The Napa CVSO should report annually, in writing, to the Board of Supervisors on the effectiveness of its outreach programs, including not just what it has done but what in its assessment should be done.

*1. Board of Supervisors*

**Initial response (2014):** The recommendation has not yet been implemented but will be implemented in the future. The VSO will:

- Track outreach activities and claims activity starting with Fiscal Year 2014-15;
- Assess effectiveness and seek opportunities to increase outreach; and
- Report these finding to the Board of Supervisors annually beginning in November 2015 (to coincide with Veterans Day).

**Updated response (2017):** The recommendation is in progress. The Napa CVSO provides an annual report of activities. A detailed report with assessment was last provided in November 2015 and is in preparation for 2017.

- C. Recommendation No. 4 was: Napa County should implement changes to its website that facilitate the finding of veteran services on its website.

*1. Board of Supervisors*

**Initial Response (2014):** This recommendation requires further analysis. Using the search feature on the County of Napa's website will take users directly to Veterans Services information and contacts. However, there may be additional changes to information or links on the website that would assist users. The County's website is under continual review for possible improvements. The Webmaster and CVSO staff will review the information and evaluate whether additional changes should be made.

**Updated response (2017):** The recommendation is in progress. The Napa CVSO provides an annual report of activities. A detailed report with assessment was last provided in November 2015 and is in preparation for 2017.

2. Recommendation No 5 was: The Napa CVSO should make available a Veteran Identification Card for Napa County veterans to enable veterans to receive additional benefits from Napa County businesses with special benefits for veterans.

*1. Board of Supervisors*

**Initial Response (2014):** The recommendation has not yet been implemented, but will be implemented in the future. Equipment to make Veteran

Identification cards has been ordered and received, and staff is currently designing the identification card. Staff is also communicating with the local Chamber of Commerce to identify the most effective way to encourage businesses to offer veteran benefits and communicate the availability of these benefits to patrons with a Veteran ID card or other military identification. Staff expect to start advertising the availability of these cards no later than September 2014, with a "soft roll out" starting in July for veterans who are already at our office for other services.

**Updated response: None**

### III. Forming Partners with the Community Through Youth Sports

- A. Recommendation No. 1 was: That the Superintendent of the NVUSD and the City of Napa Parks and Recreation Department re-establish within the next six months a new Joint Use Agreement for Maintenance of School Sports Fields for School and Community use.

#### *1. City Manager*

**Initial response (2014):** The recommendation has not yet been implemented, but will be implemented within the time frame recommended. The City of Napa Parks and Recreation Department and NVUSD have met and initiated discussions regarding the development of a new Joint Use Agreement.

**Updated response (2017):** The City of Napa and NVUSD entered into a two-year agreement on July 21, 2015 to provide for maintenance of school sports fields to ensure continued community use. This agreement was intended to serve as a bridge while the NVUSD and the City of Napa developed a broader based, comprehensive agreement to address the City of Napa's and community's access to all the District facilities; including sports fields, swimming pools, gymnasiums, tennis courts, classrooms and other related facilities. Currently, the City of Napa and the NVUSD are actively working together to finalize terms and conditions of the comprehensive Joint Use Agreement with plans for adoption no later than July 2018.

- B. Recommendation No. 14 was: That the City of Napa and the NVUSD continue to work in collaboration in the development of more playing fields on city-owned land for community use such as Kennedy Park.

#### *1. City Manager*

**Initial response (2014):** The recommendation has not yet been implemented, but will be implemented in the future. The City of Napa's Parks and Facilities Master Plan, adopted February 16, 2010 recommended new recreational sports fields focused on soccer, junior baseball and junior softball with additional space for casual play. The plan highlights the important collaboration between the City of Napa and the NVUSD to provide a mix of casual, individual and organized activities across the city. The next step toward meeting the Plan's recommendations and specifically the Grand Jury's recommendation R 14 will be accomplished with the development of a Master Plan for Kennedy Park. The City is in the process of

contracting with a firm that will develop the Master Plan. This Master Plan will be completed within the next seven months.

**Updated response (2017):** The Master Plan for Kennedy Park was completed and subsequently accepted by the Napa City Council on December 15, 2015. The Plan was developed with extensive community input and included a representative of the NVUSD staff on the planning team. The plan includes two additional softball fields, a baseball field in a stadium setting, batting cages, multi-purpose sports fields suitable for accommodating soccer, football, rugby, lacrosse and cricket activities. Additionally, the Plan calls for a variety of other facilities including a 30,000-square foot community center with a gymnasium and classrooms, picnic areas, playgrounds, trails and other site amenities that will encourage community gathering.

**APPENDIX C**  
2014-2015 REPORT RESPONSES

I. Health and Human Services Agency Vast and Visionary

- A. Recommendation No. 2 was: By December 31, 2015, HHSA to review the application process for obtaining the MSA grant, and redesign the process for less burdensome completion and administration.

*1. Board of Supervisors*

**Initial response (2015):** The recommendation requires further analysis. The Board agrees to have the process evaluated by an outside consultant to suggest improvements for the next funding cycle by December 31, 2015. This evaluation may or may not result in a redesign of the process.

**Updated Response (2017):** Regarding Recommendation No. 2, the Board did hire a consultant who evaluated the process, which did result in a redesign of the MSA grant process effective with the Fiscal Year 2016-17 grant cycle. Regarding Recommendation Nos. 5, 6, and 9, the Board and HHSA have long recognized the need for and utility of the ability to combine data sources to be able to get an all-inclusive view of individuals' needs and service utilization and of the community's needs and service utilization. In FY 2016-17, the Board approved HHSA funding to create a data warehouse that will give the Agency the ability to look at data across divisions within HHSA. This is a large undertaking that will take several years to complete. Once completed, it will be a tool to look at service needs and usage individually and collectively and will help to quantify demographics and geographic needs. The Live Health Napa County initiative, for which HHSA provides backbone support, has begun the process of mapping health and social indicators.

- B. Recommendation No. 5 was: By December 31, 2015, HHSA to establish a mechanism for measuring services located Up Valley more often than or more specifically than "as needed."

*1. Board of Supervisors*

**Initial response (2015):** The recommendation requires further analysis. Currently, there are several different statewide data systems that collect information on clients based on the type of services received. These data systems do not warehouse the data in a common location. While the project scope is too large to commit to a December 31, 2015 completion, HHSA has recognized the need for, and plans to allocate resources in Fiscal Year 2015-2016 to develop, refine and report on data sources to better target programs and services. As mentioned previously, the work accomplished through LHNC will also be useful in this regard.

Many services that HHSA provides are appropriately offered on an "as needed" basis in homes, schools, hospitals and other sites. "As needed" is a common specification for health and human service providers and allows for flexibility

based on individual needs. These services, such as mental health, public health, Public Guardian, Adult Protective Services, In Home Supportive Services, veterans services, child welfare, adoptions, and emergency preparedness trainings are available countywide.

In an attempt to evaluate and improve Up Valley services, the Agency worked with the mayor of Calistoga and the Calistoga Family Center in December 2013. Currently, mental health, Women Infants and Children (WIC), Medi-Cal and CalFresh applications assistance, Adult Protective Services, Public Health Medical Therapy Program, school based alcohol and drug prevention and early intervention programs, indigent medical care and employment, education and training services to youth enrolled in Workforce Investment Act (WIA) services are offered in Calistoga at the Up Valley Family Center, schools, Calistoga Clinic and in homes.

Similarly, services offered at various locations in St. Helena include WIC, mental health, Adult Protective Services, public health, indigent medical care and WIA education and training programs.

**Updated Response:** None

- C. Recommendation No. 6 was: By December 31, 2015, HHSA to review case reporting information within HHSA Divisions to ascertain the frequency and actual locations where Up Valley services are reportedly being provided.

*1. Board of Supervisors*

**Initial response (2015):** The recommendation requires further analysis. As mentioned previously, HHSA plans to allocate resources to develop, refine and report on data sources to better target programs and services. Some of this work will be accomplished through LHNC and its Data Workgroup.

**Updated Response:** None

- D. Recommendation No. 8 was: HHSA to institute a reporting requirement regarding demographic locations of service for all HHSA Divisions and include in future nonprofit contracts.

*1. Board of Supervisors*

**Initial response (2015):** The recommendation requires further analysis. HHSA believes the Grand Jury is referring to a reporting of "geographic locations of services". HHSA will implement the recommendation on a case by case basis where it makes sense to do so. Based on the population health work, HHSA has begun data mapping different neighborhoods throughout Napa County. By using a geographic information system (GIS), a wide variety of data sets have been mapped, including demographic information and other pertinent health and social indicators.

**Updated response:** None



## II. Management of Groundwater & Recycled Water

- A. Recommendation No. 2 was: By June 30, 2016, the Napa County Public Works Department to require major groundwater users to meter and report their water usage on a quarterly basis to ensure all well owners are following prescribed usage rates.

### *1. Board of Supervisors*

**Initial response (2015):** The recommendation requires further analysis. This recommendation will be considered in the context of the Alternative Groundwater Sustainability Plan, due to the State between June 30, 2016 and January 1, 2017. Development of the plan will include significant outreach to and input from the public. The Board of Supervisors will consider and determine the necessary amount of metering and reporting in the context of this public discussion.

**Updated response (2017):** The recommendations were considered in the preparation of a Groundwater Sustainability Plan-alternative (Plan), which was submitted to the California Department of Water Resources (DWR); it is expected DWR will complete its review of the Plan expected by early to mid-2018. The County's groundwater monitoring program is outlined in the Plan, which addresses the monitoring needs to insure long-term groundwater sustainability. The Plan and monitoring program were developed with an extensive public outreach process. Napa County also prepares a Comprehensive Groundwater Monitoring Program Annual Report, which provides a review and update of the program, and is presented to the Board of Supervisors and submitted to the State/DWR.

The Planning, Building and Environmental Services (PBES) Department develops project specific recommendations for groundwater monitoring based upon the Water Availability Analysis(WAA) and CEQA environmental review of a project. PBES also recently updated its Conditions of Approval, which require well monitoring data quarterly and volume of water withdrawn monthly if the Director determines that substantial evidence indicates water usage is affecting or would potentially affect groundwater supplies or nearby wells. In addition, the well monitoring data will be provided to the County if the Director of Public Works determines it could be useful in supporting the County's groundwater monitoring program.

Napa County also has a comprehensive groundwater outreach program to encourage on-going public participation, education, and the sustainability of our groundwater resources. The following websites provide additional information:

- The Watershed Information and Conservation Council (WICC) has taken on the role of groundwater outreach, at BOS direction, and has conducted many public meetings on the subject. The WICC's groundwater information web-portal contains up to date reports, interactive maps and other groundwater and watershed resources. <https://vwww.napawatersheds.org/0uoundwater>
- A newly revised groundwater program brochure can be found on the County website and on the WICC website.
- A Napa County Well Owners Guide was published in July 2017: <https://www.napawatersheds.org/documents/view/8773> Well Owners Guide Final.pdf.

- A video was published in July 2017 that overviews our groundwater monitoring program and its objectives: [haps://voutu.be/yyGHAWvegK0](https://voutu.be/yyGHAWvegK0)
- A video was published in August 2016 that promotes and describes the County's groundwater self-monitoring program, "DIY Groundwater Monitoring": [baps://voutu.beipqM2-UQQF2Q](https://voutu.beipqM2-UQQF2Q)
- A DIY Monitoring webpage was created with information, links and resources that promote and explain the free program. A new targeted Groundwater News List Serve was created in March 2016 and has over 110 subscribers.

B. Recommendation No. 3 was: By June 30, 2016, the Napa County Public Works Department to adopt policies to encourage all other groundwater users to meter and monitor their well water usage.

*1. Board of Supervisors*

**Initial response (2015):** The recommendation requires further analysis. This recommendation will be considered in the context of the Alternative Groundwater Sustainability Plan, due to the State between June 30, 2016 and January 1, 2017. Development of the plan will include significant outreach to and input from the public. The Board of Supervisors will consider and determine the necessary amount of metering and reporting in the context of this public discussion.

**Updated response:** None

III. Napa County Fire Department Career and Volunteer Firefighters

A. Recommendation No. 1 was: By September 1, 2015, the Fire Service Advisory Committee to establish a regular meeting schedule, circulate the meeting minutes and update the FSAC website within 10 days of every meeting, in order to inform the community and firefighter ranks of scheduled meetings and agendas. In addition, the minutes for each FSAC meeting are to be circulated within 10 days of each meeting to all the members of the Napa County Fire ranks to keep them informed of the issues and the efforts to address them.

*1. Napa County Fire Chief*

**Initial response (2015):** This recommendation has not been implemented but will be implemented by September 1, 2015. The Fire Services Advisory Committee adopts a meeting schedule at the first meeting of each calendar year. The Fire Services Advisory committee meets the second Thursday of the odd months (January, March, May, July, September, and November) at 1:00pm in the Napa County Board of Supervisors Chambers located at 1195 Third Street in Napa. Special meetings may also be called by the Chair of the committee. Staff is completing the upload by the end of August of all prior meeting agendas, minutes and documents which will be located on the Fire Services Advisory Committee link by accessing: <http://www.countyofnapa.org/CountyFire/> Any volunteer member or interested community member may be added to the

email distribution list by contacting Stacie McCambridge at [stade.mccambridge@countyofnapa.org](mailto:stade.mccambridge@countyofnapa.org). Agendas and minutes are sent to each Volunteer Fire Chief. Per the current communication protocol, it is the responsibility of the Volunteer Fire Chiefs to forward the agenda and minutes to their company members.

**Updated response:** None

2. *Napa County Executive Office*

**Initial response (2015):** The Napa County Executive Office concurs with the response of the Napa County Fire Chief.

**Updated response:** None

3. *Board of Supervisors*

**Initial response (2015):** The Board of Supervisors concurs with the response of the Napa County Fire Chief.

**Updated response (2017):** Both recommendations [No. 1 and No. 3] were completed by the dates indicated. The Fire Service Advisory Committee continues to meet regularly with one representative from the Board of Supervisors appointed to it each year. Meeting minutes are circulated and FSAC website is update within 10 working days of every meeting. Minutes are circulated to all members of the Napa County Fire ranks. A survey was conducted of the volunteer firefighters and training issues were resolved based on responses received.

IV. Napa County Wineries

- A. Recommendation No. 1 was: By January 1, 2016, the Planning Department to increase the number of yearly winery code enforcement audits from the current rate of 20 audits per year so that every winery would be audited at least every five years or at such intervals that the Planning Commissioners or County Supervisors deem to be appropriate.

1. *Board of Supervisors*

**Initial response (2015):** The Board of Supervisors agrees with this recommendation. At their meeting on March 3, 2015, the Board directed staff to bring back recommendations on expanding the wine audit. The Agricultural Protection Advisory Committee (APAC) is expected to make its tentative recommendation on the structure of the wine audit (including expansion of the audit) on July 27, 2015. The APAC recommendations will be forwarded to the Planning Commission on September 2, 2015. The Commission, in turn, will forward their recommendations to the Board of Supervisors on November 24, 2015.

NOTE: The Grand Jury was advised that yearly winery code enforcement audits were suspended in 2016.

**Updated response (2017): Board of Supervisors:** The Board of Supervisors has held several public workshops over the past several years regarding the issue of code enforcement, and the annual winery audit. Workshops were held on March 3, 2015;

August 11, 2015; September 13, 2016; February 7, 2017; August 27, 2017; and September 11, 2017. This is in addition to the Board of Supervisors discussions on the recommendations of the Agricultural Protection Advisory Committee on December 8, 2015; January 5, 2016; and March 1, 2016, which included consideration of winery code compliance. As a result of these discussions, the Board gave the following tentative direction to staff:

- Require that all wineries within the unincorporated area annually report the following information to the PBES Director: (A) number of gallons of wine produced in the previous calendar year; and (B) number of gallons crushed and juiced in the previous year from grapes that that were grown in Napa County.
- Evaluate all production reporting pursuant to the County Winery Production Process, including the use of a rolling three-year average. For the first year of reporting only, wineries will submit data for the previous three years to determine current compliance with production requirements. Production data will be required annually thereafter.
- Acknowledge that the Winery Production Process is not equally applicable to all winery operations. Those wineries that wish to submit alternative calculations may submit an amended report, which explains the methodology proposed to calculate a winery's production and/or grape source percentage.
- Require that all wineries within the unincorporated area annually report the following information to the PBES Director: (A) number of gallons of wine produced in the previous calendar year; and (B) number of gallons crushed and juiced in the previous year from grapes that that were grown in Napa County. Those pre-WDO wineries that do not have to comply with the 75% Napa County grape source requirement would not be required to annually submit sourcing data. However, such wineries must provide annual production level reports in order to verify that they are staying within those pre-WDO established production levels.
- Require scanned Tax and Trade Bureau (TTB) and United States Department of Agriculture (USDA) documents to be submitted as attachments to verify the information submitted to the County. All information submitted to the County will be treated as proprietary and will be maintained in a secure database with limited access. Once reporting has been reviewed by staff to verify compliance, production and grape source data will be destroyed, except when used as part of an ongoing violation investigation.
- Beginning in 2018, require annual reporting for production and grape crush activities conducted in calendar year 2017.
- Conduct an inspection and full evaluation of all entitlement requirements and conditions of approval, when the reporting data submitted to the County indicates that a winery is in violation of either their production limit and/or their grape sourcing requirement. Staff will send a Notice of Violation to the owner, which will clearly list all violations and how compliance can be achieved.
- Create the software and Internet interface necessary to minimize the burden for wineries to report their annual data to the County electronically. In

addition, a database/spreadsheet will be developed to evaluate the production data in accordance with the County Winery Production Process. The software programs shall be designed to ensure that all data and analysis obtained through annual winery reporting is fully secured with restricted staff access. Staff will work with Information Technology Services (ITS) to develop the program. If additional expertise is required, ITS may hire a consultant to assist with the development of the software program. Budgets may be adjusted as necessary to accommodate the additional expenditure, following approval by the Board of Supervisors.

Final confirmation of staff direction regarding the winery audit will be considered by the Board of Supervisors early in 2018.

As noted above, the Board of Supervisors has directed staff to focus future winery audits on production and grape sourcing. Both of those reports are proprietary and protected a confidential under State and Federal law. As such, individual reporting information cannot be disclosed to the public. The Frequently Asked Questions were posted on line in August of 2015. They can be found at the bottom of this page: <http://www.countyofnapa.org/Pages/DepamrtmentContent.aspx?id=4294986786>

With regard to inspection reports of non-compliant use permits, staff will continue to make copies of the Notices of Violation available to the public. All other details related to any violation is part of the ongoing violation investigation and are not available to the public.

The Board of Supervisors provided direction to staff on March 1, 2016. The Board determined that the WDO as adopted provides an appropriate framework for processing winery applications and did not direct that any changes be made to the ordinance. It directed staff to prepare guidelines concerning variances, residential development, outdoor hospitality, locational criteria, and production comparison charts, but did not direct that any ordinance amendments be made to the WDO.

- B. Recommendation No. 3 was: By January 1, 2016, the Planning Department to make the inspection reports of non-compliant wineries more transparent to the public in much the same fashion as health code violations of restaurants are reported.

*1. Board of Supervisors*

**Initial response (2015):** The Board of Supervisors partially agrees with this recommendation. More transparency in the code enforcement process would allow both residents and visitors to know which wineries are in compliance and which are not, as well as the nature of the violations. However not all information can be made publicly available. For instance, it is County Counsel's opinion that the production, crush, and grape sourcing data provided by individual winery operators in forms submitted to the ATTB and California Department of Food and Agriculture (CDFA) are proprietary under State and Federal law and may not be disclosed to the public. Similarly, although the

names of non-compliant wineries are not released as a part of the wine audit, staff does make copies of Notices of Violation available to the public upon request, which includes the name of the property owner where the alleged violation occurred. Any other details of cases where there are ongoing violation investigations would not be available to the public. The Board will take up the issue of transparency within the overall context of the wine audit recommendations being forwarded to it by the APAC and the Planning Commission.

**Updated response:** None

- C. Recommendation No. 4 was: By June 30, 2016, the county Board of Supervisors and the Planning Commissioners to determine whether the Winery Definition Ordinance (WOO) as written provides the regulatory framework necessary to maintain a winery industry that is consistent with the Agriculture Preserve Ordinance.

*1. Board of Supervisors:*

**Initial response (2015):** The Board of Supervisors agrees with this recommendation. Due to growing concern regarding the rate, location, and intensity of winery development projects in the unincorporated area, the Board of Supervisors formed the APAC on March 17, 2015. The intent of the APAC was to make recommendations to the Planning Commission regarding revisions to the standards governing the development and expansion of wineries, operations, activities, and related matters. The APAC is required to report on its recommendations to the Planning Commission by September 2, 2015. The Planning Commission is then mandated to make its recommendations to the Board of Supervisors by November 10, 2015.

**Updated response:** None

- D. Recommendation No. 5 was: By June 30, 2016, the Planning Commissioners to establish and publish a range of penalties and/or operating restrictions for non-compliance infractions of use permit requirements. Such action should encourage wineries to be more cognizant of the cost of non-compliance.

*1. Board of Supervisors*

**Initial response (2015):** The Board of Supervisors agrees with this recommendation. Staff is currently working on a Frequently Asked Questions (FAQ) hand-out, which would include information regarding the types of fines and penalties that may be assessed for non-compliance. The hand-out will be posted on-line and will be included in future compliance workshop presentations provided by staff to the wine industry and other interested members of the public.

**Updated response:** None

**APPENDIX D**  
2015-2016 REPORT RESPONSES

I. Napa County Performance Measurements

- A. Recommendation No. 1 was: Discontinue publication of the Performance Measurement Report in its current form. If the Board of Supervisors finds the activity tracking and/or division overviews useful, produce them in a more condensed and efficient way. Use the website to do so whenever possible.

*1. County Chief Executive Officer*

**Initial response (2013):** Recommendation will be implemented. Effective this fiscal year, the PMR will no longer be produced. In the future, staff will be developing performance measures that align with the strategic goals developed by the Board of Supervisors at their next Strategic Planning retreat. Rather than require specific number of measures, direction to departments will be to develop Performance Measures that measure progress toward the goals that the Board of Supervisors wants to achieve.

**Updated response:** None

*2. Board of Supervisors*

**Initial response (2016):** Recommendation No. 1 will be implemented.

**Updated response (2017):** Recommendation No. 1 was implemented.

- B. Recommendation No. 2 was: Post key activity levels ("Community Indicators") on the county website annually, or more frequently if data are available, and no later than 60 days following the end of the period being report.

*1. Board of Supervisors*

**Initial response (2016):** Recommendation No. 2 may be implemented in the future.

**Updated response (2017): Recommendation No. 2 continues to be a possibility.** The Board has not established new Strategic Goals, so no performance measures likewise have been developed for them. When those two actions occur, Community Indicators could be included.

*2. County Chief Executive Officer*

**Initial response (2013):** The Recommendation may be implemented in the future. Community Indicators are interesting, but not necessarily tied to the County's activities or performance. When staff develops performance measures to align with the Board's Strategic Goals, Community Indicators could be included in any publication or related website.

**Updated response:** None

## II. Napa County Website Needs Improvement

- A. Recommendation No 2 was: In response to finding F2, clean up the website and keep it current. Verify that information is accurate, up-to-date, and easy to find.

*1. Board of Supervisors, County Executive Officer and Director of Library Services and Community Outreach*

**Initial response (2016):** County Executive Officer and Director of Library Services and Community Outreach agree with this recommendation. It is incumbent on County departments to ensure content is up to date and accurate, as they are the departmental subject matter experts. The Webmaster is available to assist the subject matter experts in updating, analyzing, troubleshooting and cleaning up the department pages.

**Updated response (2017):** The Board of Supervisors identified the need to keep the website current and upgrade the website search function, directing staff to make this a priority. Regarding Recommendation No. 4, the Board authorized the creation of a new position – Webmaster – and successfully recruited and filled the position in 2014. The Webmaster, together with department users meets regularly to share best practices and recommend changes to the website. In addition, the County conducted a Request for Proposal, purchased a new software system, with more advanced content management capabilities, and is implementing a new enhance and more intuitive website. A project point person from each County department has been engaged in the development of the new website.

**NOTE:** This response apparently applies to Recommendations 2, 3, 4, 5, and 6.

- B. Recommendation No. 3 was: In response to finding F3, the county should upgrade the website search function.

*1. Board of Supervisors, County Executive Office and Director of Library Services and Community Outreach*

**Initial response (2016):** The County Executive Officer and Chief Information Officer agree with this recommendation. In the RFP for a new CMS software system, the enhanced search tool is a key requirement. This RFP is planned to be posted during the first quarter of Fiscal Year 2016-17.

**Updated response (2017):** See II.A.1 Updated response.

- C. Recommendation No. 4 was: Based on findings F4 and FS, the Jury recommends that the county form an expert user group to share best practices and new web functionality among divisions.

*1. Board of Supervisors, County Executive Officer and Director of Library Services and Community Outreach*



**Initial response (2016):** Outreach agree with this recommendation. A bi-weekly drop in session is available to content providers to work one on one with the Webmaster. The Webmaster meets with departments individually when needed and constantly is reviewing analytics, website chat data and seasonal/scheduled events to enhance the user's experience. Until further resources become available, a recommendation by department heads to the Director of Library Services and Community Outreach to realign the content providers into two distinct users groups will be implemented in Fiscal Year 2016-17. Representatives from each department will serve on the Users Experience (UX) group to ensure County-wide consistency in the user experience from department to department. A group of application experts will also be convened. The application experts will work closely with the department's UX contributor to assure that any changes made are done with the end user in mind.

**Updated response (2017):** See II.A.1 Updated response.

- D. Recommendation No. 5 was: In response to findings F4 and F5, recognize the website's importance as a communication, productivity, and service tool, by providing sufficient up front resources to department/division managers and to Information Technology Services to be able to implement all systems enhancements that can be cost justified through improvements in productivity and customer service.

*1. Board of Supervisors, County Executive Officer and Chief Information Officer*

**Initial response (2016):** Agree with the recommendation. The Information Technology Services Division works on a bi-monthly basis with a countywide ITS Leadership Committee (made up of a representative set of County department directors) to prioritize projects that cross the entire County. This committee has already made the improvement of the County website a top priority. Funding is provided in the Fiscal Year 2016-17 budget for improvement and once the RFP responses have been reviewed the contract for a new CMS will be brought to the Board of Supervisors for approval.

**Updated response (2017):** See II.A.1 Updated response.

- E. Recommendation No. 6 was: In response to Finding F5, the Board of Supervisors should challenge department and division managers to identify opportunities to improve productivity and/or customer service through the use of technology and provide the necessary up front resources to implement those opportunities that can be justified based on cost/benefit analyses.

*1. Board of Supervisors, County Executive Officer and Chief*

*Information Officer*

**Initial response (2016):** County Executive Officer and Chief Information Officer agree with this recommendation.

**Updated response (2017):** See II.A.1 Updated response.

III. Gang Activity in Napa County

- A. Recommendation No. 2 was: Continue the Legacy Program at Vintage High School and use as a model for other high schools, in particular Napa High School and Valley Oaks High School.

*1. City of Napa*

**Initial response (2016):** The recommendation to continue the Legacy Program at Vintage High School and to use as a model for other high schools has been implemented by the Napa Police Department. The recommendation to use the Legacy Program as a model for other high schools, in particular Napa High School and Valley Oaks High School will require further analysis by the Napa Police Department in collaboration with NVUSD. The analysis to use the Legacy Program as a model for other high schools, in particular Napa High School and Valley Oaks High School will include a review of staffing, fiscal, and needs considerations. This analysis will be completed by September 30, 2016.

As noted in the Report, the Legacy Program at Vintage High School has shown great success. Vintage High School has not replaced AVID with Legacy. Enrollment in the AVID program has been increasing annually and has doubled since it began. Vintage High School attributes its student academic success and a sense of belonging to this increased AVID enrollment in partnership with the Legacy Youth Project that also builds academic success and student connections.

NVUSD will be expanding the Legacy Program to Silverado Middle School, Redwood Middle School and the sixth grade class at Napa Valley Language Academy for the 2016-17 school year.

Napa High School uses the AVID and LAYLA programs to build academic success and a sense of belonging for students. Due to funding restraints, we will be analyzing where we can expand the Legacy program after the 2016-17 school year.

Valley Oak will be implementing an advisory period next year to continue to strengthen its community. Valley Oak will continue to work with Napa and Vintage High Schools in a multi-year partnership with the Acosta Consulting Team to develop more culturally responsive curriculum. Napa High will be joining the training in 2016-17.

**Updated response:** None

IV. Facility Management

- A. Recommendation No. 2 was: The County Board of Supervisors should direct

the County Executive Officer to compile a list of contracts for the maintenance of critical equipment and services and to institute a policy that RFPs for replacement contracts be distributed at least sixty days in advance of the expiration dates of such contracts. This policy should be in place by December 31, 2016. Any deviations from this policy should be approved by the County Executive Officer on a case by case basis.

*1. Board of Supervisors*

**Initial response (2016):** The Board of Supervisors disagrees with this recommendation. The recommendation will be implemented as follows: It is the responsibility of the Director of Public Works to establish departmental policies, procedures and goals. A policy will be in effect by May 31, 2016 which will provide for the timely contracting of maintenance services. The Public Works Department has compiled a list of contracts for the maintenance of critical equipment and services, including:

- Elevators: Awarded to KONE, Inc. on April 19, 2016
  - Generators: Awarded to Peterson Power Systems, Inc. on April 19, 2016
  - Heating Ventilation and Air Conditioning (HVAC): Awarded to Bell Products, Inc. on May 10, 2016
  - Fire alarms and sprinklers: Expected award date is August 2, 2016
- The Director of Public Works will annually review services provided beginning in June, 2017, will track changes to equipment that may impact the scope of work included in the contract, and will develop a timeline to ensure that a request for proposal process will be undertaken and a new contract is in place at least 60 days prior to expiration of the existing service contract.

**Updated response (2017):** The policy was not put into place by May 31, 2016, because the policy became unnecessary once the Public Works Department reviewed County policies regarding contracting for maintenance services. The Department did create list of contracts for the maintenance of critical equipment and services and continues to maintain a listing of contracted maintenance services, including contract budget amounts and expiration dates. Contracts are amended as needed pursuant to County policy when there are changes in the scope of work, which may include addition equipment or an increased scope of services. Expiration dates are reviewed annually, and the Department takes appropriate steps to conduct competitive procurement process as required by the County's Purchasing Policy.

V. Is Napa County Financially Healthy

- A. Recommendation No. 1 was: As a result of F3, the Grand Jury recommends that Napa County institute a schedule in the Management's Discussion and Analysis Section of the CAFR that explains the negative variance from "Actual

Amount (Budgetary Basis)" and "Variance with Final Budget" in "Aid from other governments." The Grand Jury believes that including the information outlined below will clarify the actual situation for the average citizen.

Explanation of Aid from other governments

County Capital Project No.	County Project Description	Date Project Initiated	Total Amount Budgeted	Actual Amount Realized in Previous Years	Actual Amount Realized This Year	Amount Carried Forward
The amount carried forward for the total of all projects will be the same as the Negative Variance in Aid from other governments						

*1. Auditor-Controller*

**Initial response (2016):** The Auditor-Controller agrees with this recommendation and can appreciate providing the public with additional information to make the CAFR more useful. Due to restrictive requirements by Governmental Accounting Standards Board in respect to the content of the CAFR, staff will work with the County's external auditors to determine the best placement and display of the information.

**Updated response (2018):** Due to the highly regulated nature and specific requirements of the County's Comprehensive Annual Finance Report (CAFR), the Auditor-Controller will continue to determine what changes, if any, can be made to that report. (see attached letter dated October 30, 2017)





**NAPA COUNTY GRAND JURY  
2017-2018**

**MARCH 30, 2018**

**FINAL REPORT**

**REVIEW OF RESPONSES TO THE  
2016-2017 GRAND JURY  
REPORTS**

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# REVIEW OF RESPONSES TO THE 2016-2017 GRAND JURY REPORTS MARCH 2018

## INTRODUCTION

### SUMMARY

California Penal Code §933 requires elected officials or agency heads to respond within 60 days of the issuance of a grand jury report that requires their response, and requires governing bodies to respond within 90 days.<sup>1</sup> Section 933.05 specifies the way the responding parties are to make their responses. These responses are transmitted to the presiding judge of the superior court.

The response to a FINDING must be provided in one of the following two formats:

- (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 for the reasons therefor.

The response to a RECOMMENDATION must be provided in one of the four following formats:

- (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 timeframe for implementation* (emphasis added).
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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*

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<sup>1</sup> Subdivision (c) provides in part: “No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls.”



*timeframe shall not exceed six months from the date of publication of the grand jury report* (emphasis added).

- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

The 2016-2017 Napa County Grand Jury issued its Consolidated Final Report on June 30, 2017. The report consisted of seven individual final reports, one of which was a review of responses to the 2015-2016 Grand Jury reports (the “Continuity Report”). The grand jury made findings and recommendations in all its investigative reports. As part of the grand jury’s commitment to continuity, to its processes and to the law, the 2017-2018 Grand Jury has analyzed for statutory compliance the required responses by elective officials, agency heads, and government agencies to all six of the 2016-2017 Grand Jury’s investigative reports.<sup>2</sup> The Grand Jury concludes that many of the responses did not comply with the provisions of Section 933.05.

## **METHODOLOGY**

The 2017-2018 Grand Jury evaluated responses to the 2016-2017 Grand Jury’s recommendations to ensure compliance with §933 and §933.05 using the statutory criteria.

**§933(c)** Were responses received by the presiding judge within the legal time limits from the date of each final report’s release (90 days for a public agency and 60 days for an elected official)?

**§933.05(a)** Did the response to a finding satisfy the requirement of §933.05(a)?

- (1) The respondent agrees with the finding, or
- (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.

**§933.05(b)** Did the response to a recommendation satisfy the requirement of §933.05(b)?

- (1) The recommendation has been implemented, with a summary regarding the implemented action; or
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation; or
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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

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<sup>2</sup> Those comments to last year’s Continuity Report are not included.

agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report; or

- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with explanation therefor.

## DISCUSSION

### Timelines

Details of 2016-2017 report publishing dates and the due dates of the responses are shown below in Table 1. All responses were provided within the specified time requirements.

**Table 1**

#### Review of Response to 2015-2016 GJ Reports

RESPONDENT	Date Published	Reply Due	Date Received	Update Request
NONE	6/9/17	N/A	N/A	N/A

#### Napa County Fairgrounds

RESPONDENT	Date Published	Reply Due	Date Received	Update Request
Board of Supervisors	6/9/17	9/7/17	8/21/17	N/A

#### Napa Child Abuse Hotline

RESPONDENT	Date Published	Reply Due	Date Received	Update Request
Director of H&HS	6/9/17	9/7/17	8/21/17	N/A
Board of Supervisors	6/9/17	9/7/17	8/21/17	N/A

#### Juvenile Hall

RESPONDENT	Date Published	Reply Due	Date Received	Update Request
Board of Supervisors	6/21/17	9/19/17	8/21/17	N/A
Chief Probation Officer	6/21/17	9/19/17	8/21/17	N/A

#### Can't Find a Parking Place in Downtown Napa

RESPONDENT	Date Published	Reply Due	Date Received	Update Request
Napa City Council	6/21/17	9/19/17	8/16/17	N/A

**Napa County Jail**

RESPONDENT	Date Published	Reply Due	Date Received	Update Request
Board of Supervisors	6/28/17	9/26/17	8/17/17	N/A

**NVTA 2040 Plan**

RESPONDENT	Date Published	Reply Due	Date Received	Update Request
Executive Director NVTA	6/30/17	9/28/17	8/1/17	N/A
Board of Supervisors	6/30/17	9/28/17	8/21/17	N/A
NVTA Board of Directors	6/30/17	9/28/17	8/1/17	N/A

**Response Requirements**

Despite the clear requirements of Penal Code §933.05, the 2017-2018 Grand Jury found that not one of the responding elected officials, agency heads, and government agencies fully complied with the statute. Several “Findings” were responded to with the statement “Neither agree or disagree.” This is not a code-compliant response. Many “Recommendations” were addressed as though they were findings (e.g., the agency “agrees” or “disagrees”). These also are not code-compliant responses.

Appendix 1 contains a tabulation of all 2016-2017 Grand Jury Findings and Recommendations, the applicable agency responses, and the 2017-2018 Grand Jury findings regarding the responses where applicable.

**FINDINGS**

The 2017-2018 Grand Jury finds that:

- F1.** With respect to the Napa County Fairgrounds report, the Board of Supervisors’ responses to Recommendations R1-R6 do not comply with the provisions of Penal Code §933.05(b); no time frame identified;
- F2.** With respect to the Napa Child Abuse Hotline report, The CWS Director’s and HHSA Director’s responses to Recommendations R1-R4, and the Board of Supervisors’ responses to Recommendations R1-R4 do not comply with the provisions of Penal Code §933.05(b); one of four responses required;
- F3.** With respect to the Napa County Jail report, the Board of Supervisors’ responses to Recommendations R1, R3, R4, and R5 do not comply with the provisions of Penal Code §933.05(b); one of four responses required;

- F4.** With respect to the Napa County Juvenile Hall report, the Chief Probation Officer's response and the Board of Supervisors' response to Recommendation R1 do not comply with the provisions of Penal Code §933.05(b); one of four responses required;
- F5.** With respect to the Napa Valley Transportation report, the Board of Supervisors' response to Recommendation R1 does not comply with the provisions of Penal Code §933.05(b); one of four responses required. The NVRTA Executive Director's response and the Board of Supervisors' response to Recommendation R5 do not comply with the provisions of Penal Code §933.05. The NVRTA Executive Director's response, and NVRTA Board of Director's response and Board of Supervisors' response to Recommendation R6 do not comply with the provisions of Penal Code §933.05(b); one of four responses required.

## **RECOMMENDATIONS**

The 2017-2018 Grand Jury recommends that:

- R1.** The Board of Supervisors and all department heads file code-compliant responses per Penal Code §933.05 to all future Grand Jury findings and recommendations.
- R2.** The NVRTA Executive Director, the NVRTA Board or Directors and the Board of Supervisors each file a code-compliant response per Penal Code §933.05 to all future Grand Jury findings and recommendations.

## **REPORT: THE NAPA COUNTY FAIRGROUNDS: The County's Orphan Asset**

### **FINDINGS**

- F1.** The Napa County Fairgrounds is a substantial asset, both to Napa County, and especially to the City of Calistoga and the surrounding northern Napa Valley community.

*Response, Board of Supervisors:* The Board of Supervisors agrees with this finding.

- F2.** At the outset, the Board of Supervisors delegated the operation and maintenance of the Fairgrounds to a private, not-for-profit organization to which it provided little or no oversight and that this arrangement has never been seriously reviewed.

*Response, Board of Supervisors:* The Board of Supervisors (BOS) disagrees in part with this finding. Napa County began its contractual arrangement with the private, not-for-profit organization known as the Napa County Fair Association (NCFA) in 1994; however, it has been in a longstanding relationship for many years prior to that date. Pursuant to State law the BOS has always reviewed and approved the annual budget for the NCFA. Beginning in 2013 with the loss of State funding, the obligation to formally approve and then submit the annual budget to the State was removed. As evidenced in the revised Agreement between the County and NCFA, the annual budget is submitted to the County but does not require Board approval. In 2008, the BOS requested that the NCFA adopt the Ralph M. Brown Act for greater transparency in its meetings. Also in 2008 the Board requested that the NCFA broaden its outreach to encompass the entire Napa Valley. The NCFA expanded its Board to include a broader representation from throughout the county and beginning in 2013 the BOS appoints three members to the NCFA Board. A partial list of accomplishments in the past decade include: revised employee benefit package; established written Procedure Manual creating Board development through training in such areas as ethics and Brown Act; converted to a 501(c)(3); completed a rewrite of the Bylaws and restated Articles of Incorporation; participated in the Valley Fire; created a volunteer program; and successfully negotiated cell tower rentals.

Through its County Executive Officer and Auditor-Controller, Napa County has provided oversight to the Executive Director of the Fair Association. The County's leadership team meets with the Executive Director (since 2010 when the current Executive Director was hired) regarding ongoing issues dealing with the facilities and general operations, and provides guidance on long-term sustainability of the Fairgrounds. The BOS recently appointed two members to work two-by-two with City Council of Calistoga members to review the governance structure of the Napa County Fairgrounds; those four members will be providing recommendations to the Board of Supervisors and the City Council, respectively, by the end of 2017.

- F3.** Failure to exercise proper stewardship of the Napa County Fairgrounds has been institutionalized in the behavior of all responsible for several generations.

*Response, Board of Supervisors:* The Board of Supervisors disagrees with this finding. As mentioned above, the Board has increased its oversight of the NCFA in the last 15 years. However, with dwindling resources and other higher countywide priorities the Board acknowledges that the Fairgrounds have suffered.

What has occurred at the Napa County Fairgrounds is not unique to it. The problem of insufficient revenues and declining infrastructure exists throughout the fair industry. Many fairgrounds, including the State facilities, were built with the belief that local funding and governance would carry the industry, i.e. local fair boards would be more responsive to community needs with members of the fair boards coming from within each unique community rather than oversight from the State or even county level. However, that system did not provide or require training for the proper stewardship of public facilities or a financial reporting system that encouraged building contingency funds for major maintenance facility projects when state funding was abundant. When state funding ended, most fairgrounds were left to survive as best they could.

- F4.** The current Fairgrounds operations consist of the County Fair and four separate enterprises, the management and maintenance of which exceeds the expertise and resources of the Napa County Fairgrounds Association.

*Response, Board of Supervisors:* The Board of Supervisors agrees with this finding. The Executive Director of the NCFA is extremely knowledgeable about fair operations. However, there is not the financial resource available to fully staff and administer ongoing programs, particularly within the limitations of a five-year contract term required by the Government Code. Maintaining the approximately 70-acre facility exceeds the financial resources of the NCFA. Restricted by the five-year term, the NCFA is unable to leverage assets for long-term debt financing. As such, whenever major facility projects are identified, the NCFA's only option for funding is to reallocate its very limited cash flow.

**F5.** The Napa County Fairgrounds and its buildings are in a state of chronic decay, the result of systemic lack of necessary maintenance and by at times overt neglect that has extended over most of the Fairgrounds' existence.

***Response, Board of Supervisors:*** The Board of Supervisors disagrees with this finding. The buildings are not in decay; they are safe, but considering that the most recent building was constructed in 1988 and the first in 1948, they could use a facelift and are in need of long-term investment to extend their useful service.

Since 2010, the NCFAs has invested over \$300,000 in infrastructure improvements including replacing the Tubbs Building sewer line, new swamp coolers on the Tubbs Building and Butler Pavilion, renovating the RV Park restrooms (new fixtures and motion-activated lighting}, replacing the reclaimed water pond pump, and the addition of permanent ADA parking stalls. During that same time, nearly \$70,000 in new equipment purchases or leases were made for new tables, chairs, and an indoor stage for special events; lawn mowers and rental carts for the golf course; ADA workstations, countertops, doors, and hardware; and picnic tables.

There has also been significant investment from volunteers both in time and resources to improve the racetrack and other facilities.

**F6.** The State's severe reduction of financial support for the Napa County Fair in 2011 may have abrogated its Land Tenure Agreement with Napa County. Regardless, the Land Tenure Agreement expires in 2024.

***Response, Board of Supervisors:*** The Board of Supervisors agrees with this finding. With approval of the Agreement between NCFAs and the County in 2013, it was agreed to continue fairgrounds operations so long as could be done without financial support from the County, providing the NCFAs with the opportunity to find long-term sustainability solutions. It is important to note that funding was reduced from approximately \$200,000 to the almost \$35,000 NCFAs received in 2016.

**F7.** The Napa County Fair itself is in serious decline, with its continued operation in doubt.

***Response, Board of Supervisors:*** The Board of Supervisors agrees in part with this finding. Over the past 25 years, as each individual community within Napa County has developed its own 4<sup>th</sup> of July celebration, participation in the County Fair has declined. The celebration of community life through the County Fair is not in jeopardy, only the time of year it currently takes place. The NCFAs continues to look at dates, duration and type of activities that encourage attendance.

- F8.** The ancillary function of the Fairgrounds as an emergency refuge for victims of flooding, wildfires, or earthquake is important, even vital, to any future development of the Fairgrounds themselves.

*Response, Board of Supervisors:* The Board of Supervisors agrees with this finding. The NCFAs mission is to serve the citizens of Napa County with cultural, social, and economic benefits in times of celebration as well as need. This mission has existed for the NCFAs since 2013, underscored by its significant role in the Valley Fire shelter operations. The Fairgrounds is identified as a primary evacuation center site in the Countys Emergency Operations Plan (EOP). While the sheer size of the Fairgrounds was a huge bonus for the 2015 Valley Fire response, the site is a primary location due to its location rather than its size. The Valley Fire Shelter was an atypical response. The County plans for shelter operations on a much smaller scale. During previous evacuation events for Floods and Fires evacuee populations totaled less than 100 at County evacuation centers. The benefits of the Fairground location is: 1) the County owns the property so approvals to use the site are not complicated; 2) large numbers of evacuees can be accommodated with support facilities; 3) animals can be accommodated at the Fairgrounds locations, unlike other County locations; and 4) Fairgrounds staff are trained in Emergency Response and their assistance and coordination proved invaluable during the Valley Fire Shelter response. If governance changes, it is currently anticipated that the Fairgrounds will continue to play an important part in the countywide emergency services plans.

- F9.** The conduct of the Napa County Fairgrounds Association Board has been at times dysfunctional, with some Board members publicly complaining about lack of transparency in the Boards financial reporting.

*Response, Board of Supervisors:* The Board of Supervisors disagrees with this finding in part. While some NCFAs members have complained, the NCFAs has had its most transparent financial operation since it established a finance committee in 2012. All financial records are made available to the public. Monthly financial statements are provided to the full Association board and the agenda packets made available at each board meeting and online. The finance committee reviews the detailed financial reports quarterly and presents them for final acceptance to the full NCFAs board. Financial reports are presented to the NCFAs membership at its annual meeting by the finance committee chairperson. The finance committee also completes the annual Statement of Operations (annual report) for submittal to the California Department of Food and Agriculture and presents the report to the NCFAs. Recently, with the rebranding of the NCFAs website, it has included the NCFAs audits from 2010. An independent Auditor is employed annually by the Association to perform a full audit of the Associations financial records, reporting and financial management every other year, with a complete financial review in the alternating years. The Auditors report and management letter are placed on the Boards agenda at a regular Board meeting for review, public input, and approval by the Board.



**F10.** Some of the complaints expressed by the former dissenting members of the Napa County Fairgrounds Association Board have merit: complaints about golf course maintenance, managerial decision making, and a general lack of transparency.

*Response, Board of Supervisors:* The Board of Supervisors disagrees with this finding. The golf course maintenance issue is a recent one. Public comments received from golfers from 2012-2015 praised the golf course maintenance operation. In 2016 the course experienced problems due to the drought and a damaged irrigation system; the conditions were corrected prior to the end of the year due to a concerted effort of personnel time, financial resources, and reengagement of professional consultants. The Board of Supervisors and management of the NCFA acknowledge the need for professional golf course management but lack the funds necessary to contract with such an individual or firm. Regarding transparency, current Association management brought the Board into compliance with the Brown Act beginning in 2010, including annual training of board members. Since then, the NCFA has developed a comprehensive written policy manual. All board meeting and standing committee meeting agendas are publicly noticed. Minutes and supporting documentation are made available online and at the meetings. Recently, the NCFA added additional financial reports to its website. The NCFA has never been more transparent to the public in its history than in the last 7 years.

**F11.** A Joint Powers Authority (or Agreement), currently being discussed by the Board of Supervisors and the Calistoga City Council, could allow for long term contracts with concessionaires to incentivize investment in and development of Fairgrounds facilities.

*Response, Board of Supervisors:* The Board of Supervisors agrees with this finding. Since October 2016, designated members of the Board of Supervisors and Calistoga City Council have been meeting to develop a mutually agreed upon governance model. It is anticipated that a recommendation will be discussed with the full Board of Supervisors and City Council by the end of the calendar year.

## **RECOMMENDATIONS**

**R1.** Any actions taken on renovation, development, or repurposing of the Napa County Fairgrounds involve explicit agreement between the Napa County Board of Supervisors and the City of Calistoga.

*Response, Board of Supervisors:* The Board of Supervisors agrees with this recommendation. The approximately 70 acres which comprise the Napa County Fairgrounds represent a significant asset for the County of Napa. The Board of Supervisors is committed to working with the City of Calistoga and has appointed two representatives to work with representatives from the City to examine the governance of the Napa County Fairgrounds and jointly plan for its future, although the County will continue to own the land.

<p><b>2017-2018 Grand Jury Finding:</b> This does not comply with §933.05(b); one of four responses required, and no time frame identified.</p>
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**R2.** By December 31, 2017, the Napa County Board of Supervisors direct the County Executive to investigate whether any California counties with similar land tenure agreements concerning their county fairs have terminated those agreements and, if so, what consequences they experienced.

*Response, Board of Supervisors:* The Board of Supervisors disagrees with this recommendation because it is not necessary. Statewide, no other such land tenure agreement exists.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b); one of four responses required.

**R3.** By 2020, the Napa County Board of Supervisors fully determine the implications of the agreement's 2024 termination and set in place plans for the Fairgrounds future development and operation.

*Response, Board of Supervisors:* The Board of Supervisors agrees with the recommendation and is working with the City of Calistoga to create a governance structure which will provide for the future development and operation of the Fairgrounds. As reported during its discussion at its September 20, 2016 meeting, the Boss acknowledges the funding difficulties facing the NCFCA, which is why the effort is being made to work with the City of Calistoga to change the governance structure.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b); one of four responses required, and no time frame identified.

**R4.** The Napa County Board of Supervisors' plans for the Fairgrounds' future include provisions for the Fairgrounds' use as an emergency refuge for the victims of natural disasters in the region.

*Response, Board of Supervisors:* The Board of Supervisors agrees with the recommendation. The County continues to include the Fairgrounds in all its emergency preparedness planning as a primary location for providing services during an emergency response. The last time the facilities were used for that purpose by Napa County was in 2015 during the Valley Fire. In addition, the NCFCA supports this, as evidenced by its recommendation to the County and City concerning the proposed JPA: the Fairgrounds should continue "as a place supports (sic) emergency preparedness, response, and disaster relief" needs of the community.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b); one of four responses required.

- R5.** As soon as practicable, the Napa County Board of Supervisors contract the operation of the Calistoga Raceway, the Mount St. Helena Golf Course, and the Calistoga RV Park to concessionaires knowledgeable and competent to operate those enterprises efficiently and profitably.

*Response, Board of Supervisors:* The Board of Supervisors agrees with this recommendation. The two by two consisting of two members from the Board of Supervisors and two members from the City of Calistoga City Council together with the City Manager, the Interim County Executive Officer and staff will be making recommendations to the full City Council and Board of Supervisors by the end of 2017 regarding the governance and ongoing operations of the Fairgrounds. Once the governance is resolved the next step is to identify long term partnerships but between jurisdictions and possibly private industry that would result in the best utilization of the Fairgrounds with the greatest community impact and benefit.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b); one of four responses required.

- R6.** As soon as practicable, the Napa County Board of Supervisors revise its contract with the Napa County Fairgrounds Association to focus that organization's efforts exclusively on the funding and operation of the Napa County Fair and related community activities.

*Response, Board of Supervisors:* The Board of Supervisors partially agrees with this recommendation. The two by two consisting of two members from the Board of Supervisors and two members from the City of Calistoga City Council together with the City Manager, the Interim County Executive Officer and staff will be making recommendations to the full City Council and Board of Supervisors by the end of 2017 regarding ongoing operations of the Fairgrounds. This will include recommendations regarding the relationship with the NCFA but may not include the ongoing operation of the Napa County Fair.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05 (b); one of four responses required.

## **REPORT: NAPA CHILD ABUSE HOTLINE**

### **FINDINGS:**

- F1.** The on-call duty rotated among all social workers and supervisors requires answering calls overnight, on holidays, and on weekends, which contributes to burnout.

*Response of CWS Director and HHS A Director:* Agree. The CWS Director acknowledges that after-hours coverage can contribute to staff burnout. However, a critical function and mission of the CWS Division is to keep children safe. One aspect of doing so is through the provision of effective, high-quality screening of Hotline calls. The CWS Director believes a balance can be achieved through changes in after-hours coverage and scheduling, discussed in further detail in the response to Finding 2 and Recommendation 1, below.

- F2.** Implementation of the new Crisis Stabilization Unit should result in a higher level of screening after-hours incoming calls, resulting in fewer non-appropriate calls being referred to on-call social workers and supervisors.

*Response of CWS Director and HHS A Director:* Disagree. At the time the Grand Jury was deliberating, a review of after-hours coverage of the Hotline was already underway and the idea of the new mental health contract provider operating the Crisis Stabilization Unit (CSU) assuming the screening of after-hours calls was being considered. Since that time, a decision was made to enhance after-hours coverage of the Hotline through scheduling changes and staffing provided by CWS Division staff. This will expand the higher level screening of after-hours calls by qualified staff with expertise and training in child welfare, while resulting in fewer non-appropriate calls being referred to on-call social workers and supervisors. This approach also ensures adherence to the confidentiality laws governing child welfare and who may legally access such records. As an example, only CWS Division staff has the ability to access the state-wide database used for child welfare documentation which contains the information necessary to properly screen Hotline calls.

- F3.** A full and proficient staff at Child Welfare Services contributes to handling referrals sooner and promotes opportunities for staff to have more effective interactions with families.

*Response of CWS Director and HHS A Director:* Agree. It is unclear what is meant by the term "full," however, since the time of the Grand Jury's deliberations the Board of Supervisors (BOS) approved the addition of a new position in the CWS Division's Emergency Response Unit (the unit responsible for receiving hotline calls during normal business hours). This added resource will positively impact the timely response and triaging of referrals. As it pertains to proficiency, as the Grand Jury report indicates, CWS staff has continued to receive training on Safety Organized Practice (SOP), Structured-Decision Making (SDM), and other best practices. The

work of child welfare is governed by a complex set of laws and regulations. It is acknowledged that proficient staff is needed to keep children safe and promote effective interactions with families. With this reality in mind that, as stated above, a decision was made to expand the after-hours coverage of Hotline calls (i.e., referrals) provided by CWS Division staff. This approach takes advantage of the vast experience and knowledge in child welfare that can only be found in the CWS Division. This approach also helps to promote consistent screening of referrals and enhances the ability of the CWS Division to provide seamless coverage when referrals are transitioned from after-hours to normal business hours.

- F4.** The public is often hesitant to report suspected child abuse and neglect to the Hotline for fear children will be removed from their families, and therefore may not call in to voice their concerns for child safety.

***Response of CWS Director and HHSA Director:*** Agree. The Grand Jury should be applauded for its accurate assessment of how the public often feels in reporting suspected child abuse and neglect. This is an underlying dynamic and reality that the CWS Division routinely encounters -and, it is among the many challenges inherent in the work. With that background in mind, the CWS Division strives to make reporters of child abuse and neglect feel as comfortable as possible. To that end, it is important to note that if a caller (i.e., member of the public) desires to remain anonymous, that, too, is respected since the overarching goal is to obtain information critical to the safety and well-being of children.

Although a more thorough explanation is provided in response to Recommendation 3-that the CWS Division record Hotline calls -the issue is briefly discussed here since the Grand Jury identified that the public is often hesitant and fearful of making calls to the Hotline. While HHSA appreciates that the Grand Jury's recommendation is rooted in providing staff training and quality assurance, it disagrees that recording calls is an appropriate solution because of its potential chilling effect. The CWS Division knows firsthand that callers are often very uncomfortable when making Hotline calls. With that realization in mind, there is grave concern that recording Hotline calls runs counter to the goal of promoting an environment that encourages disclosures. Callers may simply refuse to call the Hotline for *further* fear of not wanting their disclosures to be recorded or their identity known. In the end, the ability of members of the public to remain anonymous, and the CWS Division's ability to provide legally mandated confidentiality to persons who make mandated reports pursuant to the Child Abuse Neglect and Reporting Act (CANRA), would be undermined.

- F5.** Napa Health and Human Services is not active enough in informing the public regarding all aspects of the Hotline.

*Response of CWS Director and HHS Director:* Agree in part, disagree in part. The Hotline number is readily available via the internet; a primary resource relied upon for accessing information today. As an example, when performing a Google search, the CWS Division's intranet page, located on the countyofnapa.org website, readily appears and provides the public both the local Hotline number (707) 253-4261 and the toll-free Hotline number (800) 464-4216. Additional outreach regarding reporting suspected child abuse and neglect, including promotion of the Hotline, is conducted at trainings provided throughout the year at different organizations. It is important to note that the Hotline is not the only mechanism for reports of suspected child abuse and neglect. Members of the public are also always encouraged to call 911 - a number requiring no memorization - or law enforcement directly who, in turn, are legally required to make cross-reports of suspected child abuse and neglect to the CWS Division. That said, the CWS Director agrees that improvements to public awareness can be made. The specific efforts that will be made are addressed in response to Recommendation 2, below.

- F6.** Technology capable of recording calls would be useful to CWS for training purposes and quality assurance.

*Response of CWS Director and HHS Director:* Disagree in part, agree in part. As explained in the response to Finding 4, above, and Recommendation 3, below, HHS disagrees that recording calls is an optimal solution. As the Grand Jury has otherwise found, the public is often hesitant to report suspected child abuse and neglect to the Hotline. The CWS Division therefore has an interest in not implementing practices that discourage Hotline calls and thwart the Division's ability to receive anonymous calls from the public at-large. The CWS Director and HHS Director agree that reviewing Hotline calls would be useful to CWS for training purposes and quality assurance. However, it is believed that can be accomplished in ways that do not heighten the public's fear of reporting. That issue is discussed further in response to Recommendation 3, below.

- F7.** Introducing technology allowing greater flexibility for CWS staff to work off-site would improve job efficiency and satisfaction.

*Response of CWS Director and HHS Director:* Agree in part, disagree in part. It is unclear what *greater flexibility* and *working off-site* means. However, HHS promotes and supports job efficiency and satisfaction while ensuring the needs of the public, and the families and children we serve, are always met. In some instances, because services are delivered "in the field" or "in the home," staff's work necessarily extends to off-site locations. Further, given the nature of after-hours coverage, staff often work off-site and are provided with the resources to do so. Staff has increasingly been provided with County-issued iPads for use during business hours and after-hours to remotely access information. The CWS Division will continue to

evaluate whether additional technology can provide greater flexibility for staff to work off-site while ensuring services are not compromised and the expectations of the public are met.

- F8.** After-hours calls regarding urgent child safety matters to Napa Child Welfare Workers living outside the County often result in longer response times.

**Response of CWS Director and HHS Director:** Agree in part, disagree in part. By way of background, Hotline calls, whether received during business hours or after-hours, are triaged and categorized. For those after-hours referrals determined to require an "Immediate Response," it is important to note that *law enforcement is present at-the-scene*. Therefore, even if a worker lives outside the County, and the response time is commensurate therewith, urgent child safety matters do *not* result in children being in unsafe situations. It is also worth noting that pursuant to Division 31 regulations that govern child welfare services in California, an "Immediate Response" requires an in-person response *within 24 hours*. In Napa County, the CWS Division requires an in-person response *within two hours*. The CWS Director and HHS Director are unaware of any after-hours "Immediate Response" referrals in which the two hour response time has not been met.

- F9.** The high cost of housing is a major factor resulting in many Napa Child Welfare Workers living outside the county.

**Response of CWS Director and HHS Director:** The cost of housing may be one of many factors contributing to CWS Division staff living outside the County. However, for some staff, living outside the County is desirable given the nature of the work (i.e., removing children from parental care, terminating parental rights, etc.) and to provide better separation between work life and personal life.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(a). Requires an "agree" or "disagree" response.

## **RECOMMENDATIONS:**

- R1.** During its initial six months of operation, the Department of Health and Human Services conduct a performance review of the Crisis Stabilization Unit regarding its effectiveness in handling after-hours calls to the Hotline. Results of the review to be reported to the Board of Supervisors no later than June 30, 2018.

**Response of CWS Director and HHS Director:** Disagree. As stated in response to Finding 2, above, at the time the Grand Jury was deliberating, a review of after-hours coverage of the Hotline was underway and the idea of the new mental health contract provider operating the CSU assuming the screening of after-hours calls was one of

many options being considered. Since that time, a decision was made to provide expanded after-hours coverage of the Hotline by CWS Division staff directly. This will be done through scheduling and staffing changes that will allow for CWS Division staff to respond to Hotline calls during peak periods. It will also ensure that such screening is done by CWS Division staff with the requisite expertise in child welfare and the complex laws and regulations that govern the work. This approach also has the benefit of minimizing hand-offs and related disruption between the work of a contracted mental health provider and CWS Division staff who will continue the child welfare work during normal business hours. And, as stated previously, due to the strict confidentiality laws governing child welfare, only CWS Division staff has the ability to access the state-wide database used for child welfare documentation which contains the information necessary to properly screen Hotline calls.

**Response1 Board of Supervisors:** The Board of Supervisors agrees with the CWS and HHSA Directors.

**2017-2018 Grand Jury Finding:** This does not comply with section 933.05(b); one of four responses required.

- R2.** Department of Health and Human Services develop a detailed plan of outreach to increase public awareness of the Hotline. This will include, but not be limited to, presentations to schools and places of worship, articles for local newspapers, and public service messages on local radio and TV stations, as well as updated written and online materials. Plan to be completed by January 31, 2018, with implementation within six months thereafter.

**Response of CWS Director and HHSA Director:** Agree in part, disagree in part. As stated above in the response to Finding 5, the Hotline number is readily available via the internet. Additionally, the Hotline is promoted at trainings provided throughout the year at different organizations. However, the CWS Director agrees that improvements to public awareness can be made. Over the next six months, the CWS Director will work with the County Public Information Officer to increase public awareness of the Hotline. The CWS Director will also partner with the Napa Child Abuse Prevention Council (CAPC) (the entity charged with organizing and implementing child abuse prevention activities) to promote awareness of the Hotline. Further, the CWS Director will partner with CAPC to expand mandated reporter trainings throughout the community, which, in turn, promotes awareness of the Hotline and the reporting process for suspected child abuse and neglect.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b); one of four responses required.



**R3.** Department of Health and Human Services evaluate technology currently in use, including the ability to record calls, track staff schedules, and accommodate off-site staffing. Upgrades determined to be worthwhile and cost effective are to be included in budget requests to the Board of Supervisors for Fiscal year 2018.

**Response of CWS Director and HHS Director:** Disagree in part, agree in part. As stated in the response to Finding 4 (the public being hesitant to call the Hotline) and Finding 6 (using technology to record Hotline calls), the CWS Director and HHS Director disagree that Hotline calls should be recorded. However, since the goal of recording is to provide staff training and quality assurance, the CWS Director believes this can instead be achieved by supervisors directly participating in Hotline calls, when appropriate for staff training and development, and/or periodically monitoring Hotline calls for quality assurance. This process helps ensure that the experience for callers is a respectful one designed to promote disclosures and minimize fear. It also has the advantage of providing training and quality assurance in real time versus through a retrospective process.

As stated in response to Finding 7 (staff technology to work off-site), staff has increasingly been provided with County-issued iPads for use during business hours and after-hours to remotely access information. The CWS Division will continue to evaluate what additional technologies exist to support the work of staff in the field.

It is unclear what the Grand Jury means by technology to "track staff schedules," however, the CWS Division currently uses various systems to track staff schedules, including an after-hours calendar, an on-duty calendar, an Emergency Response Unit calendar, and an in/out white board. The CWS Director will consider whether any technology to automate these tracking mechanisms *would be useful* to the CWS Division.

As of the drafting of this response, no specific technology upgrades have been identified that require inclusion in the Fiscal Year 2017-2018 budget, which has already been approved by the BOS in June 2017. Staff who need County-issued iPads have been provided them, and the CWS Division is able to meet any additional iPad needs within its existing budget.

**Response, Board of Supervisors:** The Board of Supervisors agrees with the CWS and HHS Directors.

<p><b>2017-2018 Grand Jury Finding:</b> This does not comply with §933.05(b); one of four responses required.</p>
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**R4.** Napa County Board of Supervisors continue efforts to promote development of affordable housing within Napa County and show evidence of such action by means of public notice and/or documents by December 31, 2017.

*Response, Board of Supervisors:* The Board of supervisors agrees with this recommendation. At the regular meeting of September 12, 2017, the Board will discuss available resources within the Housing Fund, and housing needs and priorities.

<p><i>2017-2018 Grand Jury Finding:</i> This does not comply with §933.05(b); one of four responses required.</p>
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## **REPORT: CAN'T FIND A PARKING SPOT IN DOWNTOWN NAPA?**

### **FINDINGS:**

**F1.** Current decentralized approach of parking management is cumbersome and inefficient.

*Response of the City of Napa:* The City partially agrees with this finding. The management of public parking necessarily requires the coordination of responsibilities (e.g., maintenance, operation, enforcement, policy, etc.) among many departments (e.g., community development, finance, public works, parks & recreation, police, etc.). This structure is not necessarily "cumbersome" or "inefficient"; however, opportunities to optimally manage parking programs occur when these functions are placed under one department where responsibilities are monitored in a comprehensive manner and as a primary responsibility. The City agrees this is important and therefore has committed to hiring a Parking Manager who will serve as the primary point of contact and be responsible for centralized management of the parking to optimize coordination and communication of a coordinated parking program (see City Response to Recommendation 1, below).

**F2.** Adequate parking exists in the Downtown Area; existing parking garages are under-utilized.

*Response of the City of Napa:* The City agrees with this finding. Existing peak parking demand is within industry accepted levels for effective supply established at 85% for on-street parking and 90% for off-street parking.

**F3.** Parking enforcement is hampered by outdated equipment and lack of personnel.

*Response of the City of Napa:* The City partially agrees with this finding. The 'camera system' currently in use in the Parking Enforcement vehicles only works in one of the two vehicles. Additionally, the system is outdated, and the City is in the process of replacing the system (see City Response to Recommendation 2, below). The City agrees there is an important question regarding the adequacy of personnel to enforce parking requirements, and the City has identified a plan to evaluate the sufficiency of staffing, and determine whether modifications to staffing levels will be recommended (see City Response to Recommendation 2, below). With current staffing levels at two full time (40 hours per week) Parking Enforcement employees assigned to the Police Department Traffic Bureau, there is effectively a net total of 3,054 working hours per year. This is based on 2080 hours per employee per year (52 weeks times 5 work days, times 8 hours), less time off for holidays, vacation, sick leave, and training (which averages approximately 553 hours per employee per year), multiplied by two employees equals 3,054 total working hours per year ( $[2080 - 553] \times 2 = 3,054$ ). Napa Municipal Code Sections 10.36.220 and 10.36.230 establish the hours during which parking is regulated in the central business district and in other business districts, between 8:00 a.m. and 6:00 p.m. on every weekday (other than holidays), which equates to 2,480 hours per year.

**F4. Short-term parking rules are ignored by many merchants and their employees.**

*Response of the City of Napa:* The City does not have sufficient information to agree or disagree with this finding. The City does have anecdotal information that indicates that there are some merchants and their employees who violate short-term parking rules.

<p><b>2017-2018 Grand Jury Finding:</b> This does not comply with §933.05 subdivision (a). Requires an “agree” or “disagree” response.</p>
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**F5. Parking is a problem in the Oxbow Area.**

*Response of the City of Napa:* The City does not agree with this Finding. While it is true that the increasing popularity of Downtown Napa, including the Oxbow District, is leading to greater demand for parking as new businesses are opened, the prevailing perception of an existing parking shortfall is not supported by evaluation of parking conditions. According to a downtown parking survey conducted by the City in 2014, within the Oxbow District are 1,106 parking spaces, including 184 on-street parking spaces and 922 off-street parking spaces. Peak demand during weekday and weekend periods is under 85% for on-street parking and 90% for off-street parking, which is the industry standard for determining if there is an existing parking problem. However, the City recognized that there are concentrated areas of high demand of on-street parking in the Oxbow District, such as along First Street and on McKinstry, Vernon and Water Streets. Sufficient available spaces exist north across the Oxbow Commons and in the off-street parking lots to accommodate existing demand, even during peak periods (excluding special events). A potential "problem" occurs in the future as the Oxbow District develops, including on the underdeveloped former Copia site (south), Napa County Corporation Yard, Wine Train property and the vacant parcel south of Westin-Verasa, if these developments do not account for their increased parking demand as they expand or develop. However, private development will be required by the City to account for its newly generated parking demand on-site. Without City-owned property in the Oxbow District and the inability of the City to require as part of future development oversizing future off-street parking facilities, other alternatives may be needed such as public-private partnerships to increase parking supply in the area. The City has already, or is in the process of implementing interim measures such as constructing 90 additional parking spaces on the former CineDome property, 65 parking spaces on the City's vacant Third Street property, and 50 spaces are in design on McKinstry Street at Soscol Avenue on former unused Flood District property.

**F6. The City has not identified funding for replacement of existing garages.**

*Response of the City of Napa:* The City partially agrees with this finding. While the existing downtown parking garages (Clay Street, Second Street and Pearl Street) are of a design and age that they will warrant replacement in the future, the garages currently provide valuable parking for demand currently generated in the downtown area. The City has established some funding sources to contribute to the costs of maintaining and replacing existing garages, but they are not sufficient to replace all existing garages.

There are several assessment districts in the downtown area that are authorized to levy assessments on businesses to cover the costs of maintenance and construction of parking facilities (structures and surface lots) for the downtown area. However, those assessments currently generate approximately \$150,000 annually, which is only enough to maintain existing structures, and improve some existing lots, but there is insufficient revenue to be allocated to construction of new structures. The City imposes a Parking Impact Fee on new development in the downtown, to cover the estimated cost of constructing new parking structures to serve future parking demands. Thus, while the Impact Fee may not be used to replace existing parking spaces, it is anticipated that one or more future parking garages will replace (and increase the size of) existing parking garages, which may use combined revenue from Impact Fees and other revenue sources.

Measures to increase funding for replacement parking are identified in the Downtown Parking Plan: Implementation Plan which will be explored with the hiring of a Parking Manager by the end of the calendar year, such as leveraging City-owned real property assets to replace existing facilities, paid parking, establishing a parking facilities reserve fund to address future capital needs, and consider an infrastructure financing plan to address capital needs. Future demands for parking, and methods for mitigating parking impacts, are anticipated to change over time as a result of expanding technologies such as driverless vehicles, ride sharing, and efficient parking systems. The City's planning efforts to address downtown parking will need to be flexible as things change in the future, including the possibility that structured parking will be a less important component of an overall parking management plan.

## RECOMMENDATIONS

- R1.** The City Council Appoint a Parking Service Manager to manage the parking system and its funding by June 30, 2018.

*Response of the City of Napa:* The City is already in the process of implementing this recommendation. On June 20, 2017, the City Council adopted Resolution No. R2017-091 approving the Budget for Fiscal Years 2017-18 and 2018-19. The Budget included funding a new Parking Manager position who will be responsible for managing the City's parking programs and infrastructure. This will help to bring programs currently performed across multiple departments into one centralized location and the position will be a subject expert responsible for coordinating improvements and enhancements to the parking programs. Development of the duties and responsibilities of the new Parking Manager position is underway with recruitment scheduled in the fall and selection of a qualified candidate at the end of the calendar year.

- R2.** The City Manager increase parking enforcement staff and replace obsolete equipment by June 30, 2018.

*Response of the City of Napa:* The City is currently in the process of replacing outdated equipment, and the replacement will be completed by June 30, 2018. The City has budgeted for a new full-time Parking Manager employee, who will be responsible for overseeing all

components of the parking program starting in 2018. The Parking Manager will assess the appropriate staffing needs and make recommendations to the City Manager. These recommendations will be made to the City Council by December 2018.

- R3.** The City Council amend the Municipal Code to make “re-parking” (block-face ordinance) in short-term spaces illegal by June 30, 2018.

*Response of the City of Napa:* The City Council will publicly consider an amendment to the Napa Municipal Code to address "re-parking" by June 30, 2018.

- R4.** The City Manager update the parking plan annually to reflect new developments in the Downtown and Oxbow Districts

*Response of the City of Napa:* This recommendation has been, and will continue to be, implemented. The City Manager routinely monitors progress toward implementation of the parking recommendations in the Downtown Parking Management Plan. After receiving the Plan in May 2015, under the direction of the City Manager, the City has: (1) constructed 90 interim parking spaces on property vacated by the CineDome within close proximity to the Downtown Core and Oxbow Districts; (2) expanded the Parking Exempt District for parcels located in the north end of the Downtown providing more funding toward a future garage in the area; (3) increased the Parking Impact Fee pursuant to a Nexus Study; (4) amended the General Plan and Zoning for a City-owned property on Third Street for 65 parking spaces within walking distance to the Downtown Core and Oxbow District; and (5) set aside funding for additional parking on Pearl Street at the former transit station.

Moreover, with the appointment of a new Parking Manager beginning in 2018, a "Re-parking ordinance" and enhanced directional signage to underutilized parking will be approved by June 30, 2018. The next two calendar years will also bring consideration of paid parking and other fiscal measures to enhance maintenance of existing parking facilities and expansion of parking in the Downtown. Available parking and future parking needs will be regularly monitored with new development, including in the Oxbow District where privately developed projects will be required to provide for the parking demand generated by these developments.

## **REPORT: NAPA COUNTY JAIL, Where are we headed?**

### **FINDINGS:**

- F1.** The employees and inmates of Napa County are at risk of physical injury due to understaffing and overcrowding at Napa County Jail.

*Response, Board of Supervisors:* The Board of Supervisors disagrees with this finding. Overcrowding and understaffing are issues that can create operational stress in a jail facility. However, attributing these factors directly to increased risks of physical injury is an oversimplification of the issue. The classification of inmates and the risk factors associated with higher security levels, increases in violent and mentally ill offenders, and influence of more sophisticated inmates are factors that may affect safety and security for staff and inmates. A crowded condition with a lower custody population does not create the same level of concern as with inmates with higher custody status. Staff is trained to address mentally ill offenders and the department relies on overtime to ensure appropriate levels of staffing. The department also relies on court-ordered releases to prevent crowding and such releases are reviewed on a daily basis. The Department has made great strides in improving its staffing through aggressive recruitment efforts using job fairs, information sessions, and nationwide recruitment using online resources. To this end, the Department has been successful in bringing eight (8) new correctional officers by August 2017. The department is also beginning testing for new officers from its most recent recruitment and hopes to fill the remaining vacancies through this process.

- F2.** The County Jail needs enhanced mental health and addiction facilities and increased counseling resources.

*Response, Board of Supervisors:* The Board of Supervisors disagrees with this finding. The department currently provides services through an agreement with Napa County Health and Human Services agency and has three mental health workers available on-site. This is an increase from the two positions that the department had a few years back. Jails are not designed to include addiction facilities that may be common in prisons and in an out-of-custody setting. Primarily, this is because of the relatively shorter term that offenders stay in a jail as compared to a prison facility. Substance abuse and addiction-related services are provided through the in-custody portion of the day reporting center and the Community Corrections Service Center once inmates are released from NCDC custody and placed under the authority of the probation department. The department is already working on increasing mental health services as part of the new jail which will include a dedicated area for mental health services with increased levels of care and services for both mental health and substance abuse treatment.

**F3. State funding restrictions on new jail facilities inhibit the use of regional jails.**

*Response, Board of Supervisors:* The Board of Supervisors agrees with this finding. The current rule under lease-revenue bond financing prohibits the renting of beds to another agency when a county uses state funding to build new jail beds. Napa is a county that has received three separate awards totaling nearly \$37 million toward the construction of new jail beds. Lease-revenue bond funding is received through a competitive process and each county is required to state its reasoning and need justifying the award. To date, counties have only been able to request their own jurisdictional needs, and current rules are not favorable to the use of regional jails. New laws are being drafted presently that would prevent agencies from using their existing beds to rent to any federal agency, which is designed to place further restrictions on counties that receive awards under lease-revenue bonds. Under the current climate it would be highly unlikely that multiple counties would be amenable to making changes to the existing rules to create regionalized facilities.

**F4. Correctional Officer retention is a chronic problem, resulting in high turnover and higher costs and risks.**

*Response, Board of Supervisors:* The Board of Supervisors disagrees with this finding. The issues related to recruitment and retention in law enforcement and corrections are not limited to Napa County. Many agencies are faced with similar issues as younger people are more attracted to working in environments that are lower in stress and carry fewer risks. Many agencies in California are hiring and recruitments are occurring on a continual basis. Napa County is faced with a higher turnover rate as officers that have been working for over 25 years become eligible for retirement and people leave for better opportunities with other agencies.

The County believes that with the recent increases in pay and the additional 5% granted to employees in the correctional officer series along with changes to their benefits package, the problems with retention should be significantly reduced over time. A review of existing positions within the Department indicates that only eight (8) officers remain in the agency with over 15 years of experience. This is a result of staff becoming eligible for retirement once they reach a certain age and the department has been dealing with retirement-related separation for a few years. This problem will correct itself as newer employees come online and begin their careers with Napa County.



- F5.** Napa County should adopt a regional jail plan. The benefits of this arrangement are both financial and programmatic.

*Response, Board of Supervisors:* The Board of Supervisors disagrees with this finding. The issues related to regionalization are already answered in the Finding 3 response. Napa County is not able to use any part of a facility that received lease-revenue bond funding through the State of California to hold inmates that do not belong to Napa County. Similarly, other counties are faced with restrictions if they received funding for a new jail using such grants. In Solano County, Napa inmates are placed in the older section of the Solano County jail as there are restrictions on the placement of Napa inmates in the newer, more modern facility which was built using state funds. The concept of creating a regionalized facility is a very complex issue involving many factors. The most basic of these is the fact that there are no existing regionalized facilities in the state that Napa and another agency can review to determine if there is in-fact any cost savings. Current laws are not congruent with the regional approach as the sharing of inmates from other counties cannot be done in a facility which benefitted from grant funding for a period of 10 years from the time that the facility is occupied. In addition, there are laws regarding how inmates are housed. For example, only sentenced inmates can be housed in non-contiguous counties. In Napa County, the sentenced inmate population is generally under 30% of the entire population and many of those can be placed in alternatives to in-custody programs, such as home detention. If the Board were to adopt a regionalized approach and house all its inmates in Solano County, there would need to be some plan to address alternatives if Solano County did not have space to rent. For regionalization to be successful, it will be necessary to change the current laws regarding presentenced inmates. The current law requires that those inmates be housed in contiguous counties.

Again, there is no analysis that has been done that indicates a financial benefit. The current arrangement with Solano County uses a sliding scale for daily bed rates and Solano County has the ability to deny acceptance of inmates based on medical or mental health needs. Current statistics indicate 30% of the total Napa County inmate population has either mental health or medical issues. In a 2017 report conducted by the Legislative Analyst's Office, the cost of housing an inmate in California on average is \$71,000 per year or approximately \$195 per day - far more than the \$88 per day Solano County is currently charging to house Napa inmates. The lower rate is possible only because Solano County is not housing mentally ill or high-risk inmates.

- F6.** There are no data to support the perception of some County officials that the Napa County jail has less serious felons than the Solano County Jail.

*Response, Board of Supervisors:* The Board of Supervisors agrees in part with the finding. The County has not undertaken a study to determine whether Napa County jail has less serious felons than at Solano County jail. Nonetheless, the size

of Napa County jail is rated at 264 beds whereas Solano County has 1,444 beds. On August 10th, the Solano County data indicated that they housed 617 inmates on felony charges. On the same date, Napa had 153 inmates held on felony charges.

## RECOMMENDATIONS

- R1.** The Napa County Board of Supervisors initiate talks to adopt a regional jail plan with Solano County by June 30, 2018.

*Response, Board of Supervisors:* The Board of Supervisors disagrees with this recommendation. Current law related to lease-revenue bonds that have already been awarded to Napa County prohibit the sharing of beds with another county in any portion of the facility that has been funded through state funding. There are no studies that would indicate any benefits to creating a regionalized facility with Solano County.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b), but meets the intent of §933.05(b)(4).

- R2.** The Napa County Board of Supervisors review Correctional Officer pay, benefits, and career opportunities, particularly with respect to retirement benefits.

*Response, Board of Supervisors:* This recommendation has been implemented. During the recently completed labor negotiations, the correctional officers pay and benefits were enhanced and improvements were made to the correctional officer disability fund. A detentions services premium pay of 5% was also added to the correctional officer series. Retirement benefits are set forth through CalPERS and the County is not able to make changes related to retirement. The County did agree to longevity pay at predetermined milestones and increases to shift differential pay. With a new facility in the planning phase and the beginning of construction of the re-entry facility, correctional officers will have additional career prospects to work in new areas and apply for promotional opportunities in the future.

- R3.** The Napa County Department of Corrections be placed under the control of the Napa County Sheriff by June 30, 2019.

*Response, Board of Supervisors:* The Board of Supervisors disagrees with this recommendation. The Napa County Department of Corrections (NCDC) is one of two agencies in the state where the agency head reports directly to the Board of Supervisors. Through changes in the Penal Code, the NCDC officers have been granted enhanced authority in making arrests and carrying out law enforcement functions in a limited scope while in the performance of their

duties inside the jail. As has been mentioned numerous times in prior Grand Jury reports, there is no benefit to placing the department under the Sheriff's agency. Absent some compelling issue -which has not been identified -there is no reason to consider a change in management structure at this time. Maintaining Board control over the jail provides for enhanced accountability (since there is only one elected body responsible for both funding and jail management), makes it easier to resist potential cost increases and, because of the collaborative culture in Napa County between the Sheriff and other County officials, allows us to utilize the Sheriff's Department for those services where Sheriff's Deputies are most appropriate, such as inmate transportation, security, liaison to criminal justice agencies and internal affairs investigations.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b), but meets the intent of §933.05(b)(4).

- R4.** The Board of Supervisors work with County legislative representatives to eliminate funding restrictions on State supported jail construction funds.

**Response, Board of Supervisors:** The Board of Supervisors disagrees with this recommendation. While providing local agencies flexibility in the use of jail construction funds is always a primary goal, the funding restrictions are set in place for transparency and for appropriate fiscal controls over lease-revenue bonds. An agency may not profit by first requesting state funding to replace much needed beds and then renting beds to another agency after successfully receiving the state funding. The policy issue for legislators is to ensure that agencies not rent beds to outside agencies after having received grants through the state based upon stated needs.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b), but meets the intent of §933.05(b)(4).

- R5.** The Board of Supervisors work with relevant County and State agencies to develop a comprehensive plan for treating mentally ill inmates. This could include a regional mental health jail facility.

**Response, Board of Supervisors:** The Board of Supervisors partially agrees with this recommendation. It is in the best interest of all concerned to have a comprehensive plan for treating mentally ill inmates. However, the County has already received funding from the State of California to move forward with the construction of a Phase I jail that will include dedicated mental health beds and provide adequate treatment space for them. Continuing to work with its partners at the local and state level on providing the best options available for treating mentally ill inmates is always a priority.

Staff will continue to investigate these possibilities and bring recommendations forward as they become available.

***2017-2018 Grand Jury Finding:*** This does not comply with §933.05(b); one of four responses required.

## REPORT: JUVENILE HALL

### FINDINGS:

- F1.** The time it has taken to fully install an updated video camera system at Juvenile Hall is unacceptable.

***Response, Chief Probation Officer:*** The Chief Probation Officer agrees with this finding. However, it is important to note that while it has taken a very long time to complete this process, the 2014 earthquake pulled many resources in other directions. Midway through the project, an issue with storage of the video system needed to be resolved and this took additional time.

***Response, Board of Supervisors:*** The Board of Supervisors agrees with the Chief Probation Officer.

- F2.** The Napa County Juvenile Hall staff strives to find appropriate rehabilitation options for mentally ill youths in lieu of incarceration.

***Response, Chief Probation Officer:*** The Chief Probation Officer agrees with this finding and appreciates the Grand Jury recognizing staff efforts.

***Response, Board of Supervisors:*** The Board of Supervisors agrees with the Chief Probation Officer.

### RECOMMENDATION

- R1.** The Napa County Juvenile Hall complete the full installation of video cameras and ancillary equipment by October 1, 2017.

***Response, Chief Probation Officer:*** The Chief Probation Officer agrees with this finding. The camera installation is complete. Staff from Communications and Information Technology Services has resolved the storage issue and the project is complete.

***Response, Board of Supervisors:*** The Board of Supervisors agrees with the Chief Probation Officer.

<p><b><i>2017-2018 Grand Jury Finding:</i></b> This does not comply with §933.05(b)(1), but meets the intent of §933.05(b)(1).</p>
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**REPORT: NAPA VALLEY TRANSPORTATION AGENCY VISION 2040  
PLAN *County Traffic Problems Need a Comprehensive Plan with Measurable Results***

**FINDINGS:**

- F1.** A majority of interviewees view the Vision 2040 Report’s proposed highway improvement lists, bike lanes, and new buses as insufficient to solve Napa County’s traffic congestion problems.

*Response, Board of Supervisors:* The Board of Supervisors neither agrees nor disagrees with this finding. The finding is an opinion. The purpose of the Vision 2040 Report is to create a road map for solving many transportation-related challenges in the County which are not limited solely to traffic congestion.

*Response, NVTA Executive Director:* The NVTA Executive Director neither agrees nor disagrees with this finding. The finding is stated as an opinion. That said, as previously stated in the clarifications above, the purpose of Vision 2040 is to create a "road map" for solving many transportation-related challenges in Napa which are not limited to congestion alone.

*Response, NVTA Board of Directors:* The NVTA Board of Directors neither agrees nor disagrees with this finding and concurs with the NVTA Executive Director's July 19, 2017, letter responding to the Grand Jury report.

<p><b>2017-2018 Grand Jury Finding:</b> This does not comply with §933.05(a). Requires an “agree” or “disagree” response.</p>
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- F2.** No quantifiable measurements are in place for the Board or the public to assess Napa County congestion management goals, determine results on a timeline, or evaluate the efficacy of NVTA budgets and spending.

*Response, Board of Supervisors:* The Board of Supervisors, as a member of NVTA, agrees that some of the Vision 2040 goals are difficult to quantify. However, there are systems in place to monitor and evaluate NVTA budgets and spending. For example, Measure T includes a monitoring plan for each jurisdiction and an Independent Taxpayer Oversight Committee that will review the fiscal and program performance of the Authority to ensure that all revenues are spent in accordance with all provisions of the Ordinance.

*Response, NVTA Executive Director:* The NVTA Executive Director agrees with this finding in part. The NVTA Executive Director agrees with the assertion that there are "no quantifiable measurements" in place to assess

NVTA's countywide transportation goals. While there are a number of goals and objectives included in Vision 2040, the Executive Director concurs with the Grand Jury's assessment that no measurable performance targets were established

**Response, NVTA Board of Directors:** The NVTA Board agrees with this finding in part. NVTA staff works with Napa Valley's jurisdictions to develop long range project and program lists that meet NVTA Board established goals in the Vision 2040 plan. Projects approved for funding by the NVTA board are selected from these lists. The NVTA board agrees that some of the Vision 2040 goals are difficult to quantify.

- F3.** The NVTA does an inadequate public relations job of educating the community of all their responsibilities, activities and progress toward achieving goals.

**Response, Board of Supervisors:** The Board of Supervisors agrees with this finding. As a member of NVTA, the Board of Supervisors voted to add a new full time Public Information Officer position to assist with the Authority's communication efforts. NVTA recognizes that outreach needs to be sustained and innovative communication techniques are-need to be employed to ensure that the Authority is clearly communicating clearly to the public.

**Response, NVTA Executive Director:** The NVTA Executive agrees with this finding in part. NVTA staff members work diligently to engage members of the public on its many plans, programs, and responsibilities. In the past two years, the agency has undergone a major rebranding exercise for both the agency and the Vine transit system. NVTA has also created a full time Public Information Officer position whose primary responsibility it is to update the website, communicate through social media, develop information materials, and organize public outreach events. The notion the public is still confused about what NVTA is responsible for is not unlike the challenges that many transportation agencies experience. We agree that more work needs to be done to educate the public and to engage them on NVTA activities and actions being considered by the NVTA board. NVTA staff will continue to evaluate innovative solutions to improve its communications with members of the public.

**Response, NVTA Board of Directors:** The NVTA Board of Directors agrees with this finding in part. The NVTA Board of Directors agrees with the NVTA Executive Director's July 19, 2017, letter responding to the Grand Jury report. The Board of Directors recently authorized a new full time Public Information Officer position to ramp up the agency's public communications efforts. The Board also acknowledges the recent work completed by NVTA staff in this area, but recognizes that outreach efforts need to be sustained and innovative communication techniques be employed to ensure that NVTA is clearly communicating to all members of Napa Valley's communities.

- F4.** The NVTA needs to better utilize data and travel demand software to (a) project future transportation conditions, (b) forecast the need for and the potential effectiveness of transportation projects and infrastructure improvements, and (c) identify the impacts of land use development.

***Response, NVTA Executive Director:*** The NVTA Executive respectfully disagrees with this finding. NVTA partners with the Solano Transportation Authority (STA) to fund a consultant to design and run the traffic demand modeling software. Traffic demand models are inherently complicated and the computers that run the models are very expensive. It should be noted that land use is a critical component included in a traffic model to determine the efficacy of project alternatives, and NVTA relies on its jurisdictions to update the traffic analysis zones which includes jobs, housing, and developments used by the model to predict traffic demand. These updates are time intensive and arduous, and consequently are sometimes delayed, or not completed frequently enough to generate accurate results. Over the last year, NVTA and STA have contracted with a consultant to build a new traffic model - an activity-based model - that should greatly improve NVTA's ability to analyze specific projects. The model is currently in the validation phase. The limitation associated with the model is that it is a regional model adapted for use in Napa and Solano counties and therefore does not achieve the granularity that a project specific simulation might achieve. This type of model is not appropriate for understanding how a long range plan - if fully implemented - would succeed in improving countywide transportation operations. To accomplish that level of analysis, each project would need to include a microsimulation model which could cost upwards of \$50,000 per project and therefore it is not a feasible as part of the long-range transportation planning process.

***Response, NVTA Board of Directors:*** The NVTA Board of *Directors* neither agrees nor disagrees with this finding. The NVTA Board of Directors believes that the discretion for determining an approach to travel demand is highly technical and defers to the expertise of NVTA staff members in coordination with consultants and Napa Valley jurisdictions transportation professionals. The Board of Directors has approved funding for various modeling activities and is supportive of the Executive Director's approach to balancing outcomes with the agency's limited resources. The Board further encourages staff to collaborate with other transportation agencies to ensure the agency is up to date on best practices in a number of areas, including travel demand modeling practices.

<p><b><i>2017-2018 Grand Jury Finding:</i></b> This does not comply with §933.05(a). Requires an “agree” or “disagree” response.</p>
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- F5.** The most salient suggested actions in V2040 were made by the Citizen Advisory Committee (CAC) and the Napa County Farm Bureau.

*Response, NVTA Executive Director:* The NVTA Executive Director neither agrees nor disagrees with this finding. The finding is stated as an opinion. That said, NVTA takes public and committee comments very seriously and has incorporated a number of the suggestions into the plan that were included in the referenced letters.

*Response, NVTA Board of Directors:* The NVTA Board of Directors neither agrees nor disagrees with this finding. The NVTA Board takes comments from NVTA committees and members of the public very seriously and works closely with staff to incorporate comments into NVTA's plans and practices.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(a). Requires an “agree” or “disagree” response.

- F6.** The NVTA is missing opportunities to promote Napa County as a test market for transportation technology companies investing in new research and development.

*Response, NVTA Executive Director:* The NVTA Executive *neither* agrees nor disagrees. There are a number of demonstration projects underway in the Bay Area. The technology companies that NVTA has reached out to did not currently have sufficient resources to implement demonstration projects in Napa. These include a number of transportation network companies who are implementing strategies elsewhere in more densely populated communities like San Francisco and San Jose. Low density environments like Napa do not offer the same opportunity for collecting the level of data that higher density counties can provide.

*Response, NVTA Board of Directors:* The NVTA Board of Directors neither agrees nor disagrees. The NVTA has no jurisdiction over the County's streets, roads, and highways. We encourage NVTA staff to reach out to technology groups and organizations and to identify proven technologies that can improve how transportation is deployed in Napa Valley. Individual board members are also actively researching technologies such as autonomous vehicles and supportive of partnering with organizations to bring technologies to Napa. While the Board is enthusiastic about emerging technologies, technology development falls outside the scope of the agency's responsibilities.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(a). Requires an “agree” or “disagree” response.

**RECOM**

## MENDATIONS

- R1.** By November 30, 2017, the Napa County Board of Supervisors form a multidisciplinary task force that includes traffic, economic, employment, and housing experts to make recommendations for comprehensive planning, innovative solutions to traffic congestion and funding sources.

*Response, Board of Supervisors:* The Board of Supervisors disagrees with this recommendation. As mentioned earlier, the Board of Supervisors represents one of six jurisdictions in the joint power authority. In fact, NVTA does have already has a Technical Advisory Committee, consisting of expert representatives from each jurisdiction that makes recommendations to the Board of Directors of NVTA. The creation of a task force, even if the Board of Supervisors had the authority to create one, would be duplicative and unnecessary.

*2017-2018 Grand Jury Finding:* This does not comply with §933.05(b), but meets the intent of §933.05(b)(4).

- R2.** The NVTA Board set clear expectations, determinate goals, and timelines to establish quantifiable traffic congestion performance targets with measurable results and annual progress reports to the public, starting in January 2018.

*Response, Board of Supervisors:* The Board of Supervisors, as one member of the NVTA Board, agrees with this recommendation. As mentioned in the NVTA response, the Board of Directors has agreed to work with NVTA staff and the Technical Advisory Committee to implement this recommendation as part of the next countywide transportation plan which is scheduled for adoption in 2020.

*Response, NVTA Executive Director:* The NVTA Executive RESPONSE: This recommendation will be implemented. However, this type of goal setting is appropriate during the development of a long-range plan. Therefore, this recommendation will be considered during the next countywide transportation plan. Development of the plan will begin in 2018-2019, including public outreach meetings, and it is anticipated that a new countywide transportation plan will be adopted by the NVTA Board in 2020.

*Response Board of Directors:* This recommendation will be implemented. The Board of Directors will work with NVTA staff and its Technical Advisory Committee to re-establish goals and objectives and to identify measurable targets as part of the next countywide transportation plan, which is scheduled for adoption in 2020.

- R3.** The NVTA seek new, dependable sources of funding ideas specifically for traffic congestion improvement actions by July 2018.

*Response, Board of Supervisors:* The Board of Supervisors as one member of the Board of Directors of NVTA agrees with this recommendation. NVTA has implemented this recommendation and aggressively seeks new funding opportunities. NVTA will act quickly to submit grants on competitive funding programs such as those programs offered under Senate.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b), but meets the intent of §933.05(b)(1).

*Response, NVTA Executive Director:* This recommendation has been implemented. NVTA is aggressive at seeking new funding opportunities. It works closely with its funding agencies and is quick to submit grants on competitive funding programs. Senate Bill 1, which was passed by the legislature and signed in to law by the Governor this past June, will provide almost \$1 billion annually in new competitive grant programs, and NVTA anticipates receiving significant new funding to improve its transportation infrastructure

*Response, NVTA Board of Directors:* This recommendation has been implemented. The NVTA Board of Directors concurs with the NVTA Executive Director's July 19, 2017, letter responding to the Grand Jury report.

- R4.** The NVTA prioritize and approve future expenditures based on quantifiable and achievable short and long-range goals, starting in July, 2018.

*Response, NVTA Executive Director:* This recommendation is already implemented. NVTA generally only approves *expenditures* on projects that NVTA undertakes directly. In recent years, these projects include transit-related operations and capital improvements and the Vine Trail. These projects are included in long and short-range plans. While measurable results may be applicable to certain projects or programs, other projects do not lend themselves to "quantifiable and achievable short and long-range goals". NVTA also funds or *programs* projects that are implemented by Napa Valley jurisdictions or Caltrans, which are funded through many different programs. All funding programs have separate and specific criteria that also must be considered. All transportation projects approved by the NVTA Board are included as part of the constrained project or program list identified in the Vision 2040 plan which has established short and long-range goals.

*Response Board of Directors:* This recommendation is *already* implemented. The NVTA Board of Directors concurs with the NVTA Executive Director's response to the Grand Jury dated July 19, 2017.

**R5.** The NVTA test new technologies and traffic management software starting in 2017.

**Response, NVTA Executive Director:** The Executive Director disagrees with and respectfully declines to implement this recommendation, as it is neither warranted nor reasonable. NVTA has introduced a number of new technologies in the transit system including fareboxes, automatic passenger counters, computer aided dispatch and automated vehicle location system, and is in the process of implementing an automated dispatch system. However, NVTA does not manage traffic and therefore testing "traffic management software" is not an appropriate use of NVTA resources.

**Response Board of Directors:** NVTA disagrees with and respectfully declines to implement this recommendation, as it is neither warranted nor reasonable. Using public funds to test new technologies is highly risky, and the NVTA Board has a fiduciary responsibility to ensure tax dollars are spent on their intended purpose. The NVTA Board concurs with the NVTA Executive Director's July 19, 2017, letter responding to the Grand Jury report and underscores that the NVTA does not manage traffic and therefore testing "traffic management software" is an inappropriate use of NVTA revenues.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b), but meets the intent of §933.05(b)(4).

**R6.** By January 2018, the NVTA have a plan to promote Napa County as an ideal test market for companies investing in transportation technology and market research and development.

**Response, Board of Supervisors:** The Board of Supervisors as one member of NVTA disagrees with this recommendation. As mentioned by NVTA in the response provided on July 19, 2017, it is neither warranted nor reasonable for NVTA to expend its limited resources on research or the development of new technologies. The Board of Supervisors as one member of the NVTA Board does encourage NVTA staff to partner with other agencies and private sector firms, provided NVIA identifies grant resources for this purpose.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b), but meets the intent of §933.05(b)(4).

**Response, NVTA Executive Director:** The Executive Director disagrees with and respectfully declines to implement this recommendation, as it is neither warranted nor reasonable. For the reasons mentioned in Finding 6 above, Napa County may not be an ideal test market for companies investing in transportation technology, market research and development. Moreover, NVTA does not have resources to fund commercial technology projects, which is

generally a requirement to encourage participation by the private sector to partner with government. That said, NVTa will continue to monitor closely the activities of our local partner agencies and agencies around the country to understand best practices as new technologies are introduced. We will further continue to reach out to technology companies and partner with them as grant-funded resources for such technologies becomes available. We also hope to partner with transit network companies on first and last mile transit connectivity.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b), but meets the intent of §933.05(b)(4).

**Response Board of Directors:** NVTa disagrees with and respectfully declines to implement this recommendation, as it is neither warranted nor reasonable. NVTa does not have resources to encourage the development of new technologies. The NVTa Board of Directors encourages staff members to use its connections to *partner* with *other* agencies and private sector firms, provided that the agency identifies grant sources for this purpose in order to minimize risks to the agency's financial standing.

**2017-2018 Grand Jury Finding:** This does not comply with §933.05(b), but meets the intent of §933.05(b)(4).

**Note:** A Supermajority of the 2017-2018 Napa County Grand Jury approved this report on February 14, 2018. No Grand Jurors were recused from this report.